RE-IMAGINING EVERYDAY CARCERALITY IN AN AGE OF DIGITAL SURVEILLANCE

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A Thesis Submitted to the School of Graduate Studies in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy

McMaster University DOCTOR OF PHILOSOPHY (2020) Hamilton, Ontario

(English and Cultural Studies)

TITLE: Re-Imagining Everyday Carcerality in an Age of Digital Surveillance

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NUMBER OF PAGES: vii, 297

LAY ABSTRACT

This dissertation encourages the reader to rethink notions of incarceration from both theoretical and practical perspectives; however, it is not a project about incarceration in the traditional sense. I argue that any notion of incarceration needs to be re-conceptualized in an age that is driven by big data and emergent technologies. While I draw on state and institutional forms of confinement in Canada, all of which have long and established histories of racism and oppression, I contend that notions of incarceration or confinement have bled into everyday life, particularly for racialized and marginalized people and communities. By surveying different surveillance technologies deployed across Canada's immigration and detention system, the institution of policing and the biometric airport, I suggest that our understanding of the carceral has drastically changed. As issues of race, discrimination and oppression continue to underpin the structures of this newer carceral system and its modes of surveillance and confinement, it is a system that is less visible and physically confining but equally restrictive.

ABSTRACT

This dissertation project takes an interdisciplinary approach towards theorizing how we understand new modes of incarceration and confinement in the digital age. It makes key interventions in the fields of surveillance studies, carceral studies, critical data and technology studies, ethnic and racial studies. I argue that less conventional modes of incarceration and confinement, which are enabled through technologies, the Internet and processes of datafication, conceal the everyday carceral functions that target and exploit racialized people. Chapter 1 examines mobile carceral technologies that are part of Canada's immigration and detention system. I investigate how notions of increased freedom that are associated with carceral technologies like electronic monitoring and voice reporting do not necessarily coincide with increased autonomy. In Chapter 2, I consider the relationship between mobile phone cameras and the rise of police body-worn cameras. More specifically, I examine how policing and surveillance technologies disproportionately take aim at Black people and communities, making the mere occupation of public and digital space extremely precarious. Lastly, in Chapter 3, I challenge the notion that biometric systems and technologies are race-neutral guarantors of identity, specifically within the polemical space of the modern airport. I argue that the airport's security and surveillance infrastructure operates according to racialized knowledges, which unofficially validate the profiling of Muslim travelers by both human and non-human operators.

ACKNOWLEDGEMENTS

I would like to begin by expressing my sincerest gratitude and appreciation for Dr. Chandrima Chakraborty, my dissertation supervisor. Of course, there is no way to fully encapsulate the extent to which Dr. Chakraborty has influenced my scholarship in this brief acknowledgment; however, it is without hyperbole when I say that I am forever indebted to her for her years of mentorship, encouragement and vested interest in my work and research. To the members of my supervisory committee, Dr. Faiza Hirji and Dr. Peter Nyers, I cannot thank each of you enough for the constructive feedback and enthusiasm you have both shown for this dissertation project. To my external examiner, Dr. Benjamin Muller, your interest in this project and the profound insights you offered during the defense will continue to shape my research moving forward. None of this would have been made possible without my partner, Maria, whose support and belief in me made this journey a reality. To our kids, Melina and Nicolas, thank you for putting everything into perspective and keeping me grounded with daily doses of love. I want to thank the Social Sciences and Humanities Research Council for funding my dissertation research. Parts of my dissertation have already been published in both peer-reviewed journals and op-eds. Portions of Chapter 1 appear in *Incarceration: An International Journal of Imprisonment, Detention and Coercive Confinement* and in *Border Criminologies*; parts of Chapter 2 have been published with *The Conversation Canada*; and sections of Chapter 3 appear in *Public*.

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Introduction

Tracing the Carceral: From Architectures of Confinement to the Digital Panopticon

> "'As we all realize, punishment was never much of a deterrent.'"—Phillip K. Dick, *The Minority Report and Other Short Stories* (72).

Canada's modern carceral system has evolved out of state surveillance practices that have predominantly targeted Indigenous peoples and communities. In order to begin to fully grasp the scope and scale of the carceral system, our understanding of the carceral must extend beyond the more common and conventional applications that tend to be rooted in spatial architectures of confinement. In *Discipline and Punish: The Birth of the Prison*, Michel Foucault describes the vastness of the carceral system by referring to the network of carceral institutions as the "carceral archipelago" (*Discipline* 297). For Foucault, the carceral archipelago reached beyond the criminal justice system, incorporating schools, hospitals, asylums, factories and even the architecture of housing in working-class neighbourhoods (171, 228), while reflecting the many ways in which the spatial and power dynamics, rhythms and chronological cycles of prisons—and their panoptic schemas—were regulated and replicated in everyday life (149). The expansiveness of the carceral archipelago bolsters, routinizes and normalizes modes of state and non-state surveillance practices outside of prison as natural extensions of life (227). As Foucault discerns, the disciplinary mechanisms and techniques of confinement that were so readily identifiable within the modern prison system had already seeped into many non-penal institutions (297). The diffusion of "penitentiary techniques into the most

innocent disciplines" (297), including elements of education and health care, served to train and discipline the social body without having to rely on physical incarceration or confinement.

Prior to the emergence of Canada's federal penitentiaries in the mid-to-late 1800s, the carceral archipelago had already begun to take shape. Through its range of colonial and state-based disciplinary methods, Canada's non-penal techniques of control and confinement took specific aim at Indigenous peoples. As Craig Proulx shows, the history of surveilling and confining Indigenous populations in Canada through the institution of the residential school system, the use of Indian Act Status cards and the creation of the reserve pass system, "allowed the colonial state to monitor the lives of those forced to bear them" (83). In turn, this created a vast network of carceral systems that were not contingent on traditional panoptic structures or modes of confinement. Beginning in 1877, one of Canada's earliest acts of mass surveillance and confinement of Indigenous peoples occurred with the North West Mounted Police, whose mandate included defending and guarding the colonial project of the Canadian Pacific Railway (CPR) against acts of resistance exercised by Indigenous peoples (83). Seen as a project that would increase and secure federal capital interests, the government-backed construction of the CPR disregarded Indigenous rights and access to ancestral lands and resources.

On 24 March 1882, Prime Minister John A. Macdonald announced that Indigenous peoples "in the territory of Assiniboia [in southwestern Saskatchewan] would be removed, by force if necessary, from the land south of the proposed railway" (Daschuk

123). Beyond using state-surveillance tactics as tools of "dissent management" (Proulx 86), the Canadian government resorted to starvation tactics for Indigenous peoples who refused removal, initiating what James William Daschuk describes as "the ethnic cleansing" of Indigenous populations in southwestern Saskatchewan (123). As a way of continuing the expansion of the CPR in exchange for the potential federal economic benefits that its completion would presumably provide, the government's refusal of food to Indigenous populations who were not on reserves amounted to a more inexpensive means of instituting spatial control and confinement through forced and unforced removals (122). In addition to the residential school system and the pass system, this offers yet another example of how Indigenous peoples, ancestral lands and spaces, became sites for the enactment of state surveillance practices and modes of non-penal and non-institutional carcerality (Proulx 83; Thobani 43; Smith, *Liberalism* 15; Thomas and Green 84; Smith, *Decolonizing* 39).

Parallels to these state-backed and more informal modes of confinement can also be drawn between the ways that Black lives were dehumanized and subjected to increased forms of surveillance and confinement, long after the abolishment of slavery across the British Empire in 1834 (Maynard 31). Robyn Maynard points out that, despite the end of formal bondage in Canada, informal bondage of Black people persisted throughout the nineteenth and twentieth centuries (31). The meaning of blackness, or the attributes ascribed to it in the form of "subservience, criminality, lack of intelligence and dangerousness," created a road map for the ways that white settlers, the state and its

institutions, set out to police and control all aspects of Black life (31). Not only did the state's fears and anxieties of blackness later lead to disproportionate rates of incarceration and longer incarceration times for Black people (48), it also led to non-penal forms of confinement. Following Confederation in 1867, Sunera Thobani notes that Canada began to organize and solidify "white racial identity as *political* (citizen) identity" (75). By establishing whiteness as the nation's foundation for cultural membership and legal citizenship, whiteness became the "nation's psychosocial and physical space" (76). As a result, Indigenous, Black and other racialized people in Canada, were prevented from accessing or benefiting from equal access to vital government-based services and institutions, which included education, employment and housing (79).

At the core of this racial problem, one that was created by white people for Black people to deny them a "human reality" (Baldwin 127), is the jeopardization of white identity amidst a growing Black identity (127). The denial of Black life as human reality made the physical, social and economic violence levied by the state and its settlers against Black people all the more invisible. According to bell hooks, this denial and invisibility follows a historical trajectory of racial oppression through which Black people "were compelled to assume the mantle of invisibility, to erase all traces of their subjectivity during slavery and the long years of racial apartheid, so that they could be better—less threatening—servants" (168). In other words, the notion of safety for white people has long resided in their power to deny Black people a human reality outside of their historically prescribed roles of racial oppression and servitude. The racialized poverty that

ensued as a direct result of the exclusion of Black people from government services, institutions and supports, tapped into existing racialized knowledges, stereotypical representations and pejorative associations of blackness. Consequently, Black people in public spaces were made more visible and susceptible to state surveillance and to institutional and non-institutional forms of spatial segregation, incarceration and confinement (Davis 33; Shabazz 8, 40, 53).

Despite the serious and glaring challenges that surveillance has posed for many racialized and marginalized groups, not all surveillance is necessarily bad surveillance. There are instances in which surveillance is not bound up in racial oppression, discrimination or some form of confinement. As David Lyon explains, "[s]urveillance is not necessarily sinister" when we consider, for example, the many ways in which it is used to monitor the health of patients inside and outside the hospital setting, and especially for those who require constant monitoring of their vital signs (*The Culture* 59). Although not all surveillance or surveillance technologies are inherently malicious, the many ways in which they are (re-)deployed by the state and by law enforcement agencies seem to suggest otherwise.

Surveillance in these domains tends to have chilling effects on the everyday lives of certain groups and individuals (68). Whether we consider the surveillance of immigrants and undocumented refugees from West Africa (Chapter 1), the racist and discriminatory surveillance and policing tactics used against Black people and activists (Chapter 2), or the intense racial profiling and surveillance of Muslims at airports

(Chapter 3), this study illuminates how racialized people are often forced to endure, negotiate and navigate the relentless barrage and multiplicity of state surveillance practices and confinement.

Divided into three chapters, "Re-Imagining Everyday Carcerality in an Age of Digital Surveillance" examines everyday racism and discrimination primarily through the lens of digital carcerality, or what some surveillance scholars have more broadly referred to as the "digital panopticon" (Lyon, *Surveillance as Social* 2003; Murakami Wood 2007). In the chapters that follow, I argue that a new carceral ideology is taking shape, one that hinges on digitally-mediated forms of control, incarceration and confinement, which work to conceal and obfuscate the ways that we view and interpret the carceral in the digital age. In this post-panoptic realm, racialized people and communities, in particular, are targeted, managed and controlled in ways that reflect both conventional and unconventional modes of confinement. In contrast to the traditional panopticon described by Jeremy Bentham and later by Foucault, the primary objective of the digital panopticon is not to discipline or punish (Koskela, "'Cam Era'" 302). Rather, the digital panopticon operates in and around invisible but market-driven, algorithmic and data-driven modes of surveillance and confinement. These systems work to "trace and track mundane activities for a plethora of purposes" (Lyon, *Surveillance as Social* 13), including the state's monitoring, collection and analyses of data that are obtained from everyday smartphone and social media use as part of their broader risk communications systems.

For a long time, carceral scholarship has concentrated on the profusion of issues and injustices that affect carceral institutions and inmates from criminological and sociological perspectives, many of which have emerged out of the United Kingdom (UK) (Woolford and Gacek 401). Criminologists, sociologists, critical prison studies scholars and others, have long argued and pointed to the various problems with mass incarceration. Over the last two decades, decarceration, prison reform and abolitionist scholarship and movements have grown (Davis 2003; Wilson-Gilmore 2007; Maynard 2017), seen more prominently with the Black Lives Matter movement. Increasingly, however, carceral scholarship has expanded outside these geographical boundaries and physical sites of incarceration, particularly with the field of carceral geography (Moran et al. 2013; Moran 2015; Moran et al. 2018), which has worked to decentralize and delocalize the notion of the carceral.

Conceptually and theoretically, my dissertation project aligns with this contemporary view of the carceral, encompassing more mobile and fluid approaches to carcerality than what has traditionally been explored. This interdisciplinary project engages with a wide range of scholarship and theoretical frameworks. It aims to bring various academic disciplines and theoretical frameworks together—and in conversation with one another—in order to demonstrate that a comprehensive understanding of new carceral perspectives entails an interdisciplinary approach that includes fields such as surveillance studies, critical data studies and critical race studies. This project hopes to contribute to the fields of carceral scholarship, surveillance and critical data studies by

rethinking incarceration and confinement through a critical data and technology framework, where the incarceration and confinement of certain groups have not only become routine, mundane and imperceptible but, in many cases, untraceable. Largely situated within Canada, this project demonstrates that Canada has cemented its status as a carceral state which is home to xenophobia, police brutality and systemic racism (Hussain), despite its international reputation as a more harmonious and safer country than the United States (US) (Hussain; Smith, "Canada"; Kay; Hopper).

At its core, "Re-Imagining Everyday Carcerality in an Age of Digital Surveillance" is anchored by what Kevin D. Haggerty and Richard V. Ericson call the "surveillant assemblage," an assemblage that "operates by abstracting human bodies from their territorial settings and separating them into a series of discrete flows…[and] then reassembled into distinct 'data doubles' which can be scrutinized and targeted for intervention" (606). Haggerty's and Ericson's surveillant assemblage is itself theoretically grounded in Gilles Deleuze's and Félix Guattari's work on the idea of the rhizome in *A Thousand Plateaus: Capitalism and Schizophrenia*. One of the ways that Deleuze and Guattari explain the system of the rhizome is through the metaphor of the plant or weed. In this metaphor, the subterranean stem, roots, radicles, bulbs and tubers of the plant or weed are all interconnected as extensions, dimensions and multiplicities of one system, but simultaneously operate as their own rhizomatic systems (6), not confined by the strict physiology or genealogy of the plant or weed itself (11).

While the rhizome may be broken or cut off at any given point, its diverse and complex subterranean ecosystem enable it to "start up again on one of its old lines, or on new lines" (9), allowing it to thrive because of its "variation, expansion, conquest, capture, [and] offshoots" (21). The surveillant assemblage outlined by Haggerty and Ericson operates like the rhizome in that it shares its capacity to expand and regenerate exponentially (614). It is not that any one specific technology or system is singlehandedly responsible (614) for the ubiquitous state of digital and global surveillance that we now find ourselves in; instead, the expansion of the contemporary, global surveillance apparatus "has been aided by subtle variations and intensifications in technological capabilities, and connections with other monitoring and computing devices" (615).

What makes the surveillant assemblage particularly worrisome is that the growth and regeneration of its digital, rhizomatic offshoots occur in largely unobservable ways. Like the complex subterranean expansion of the plant or weed, we can never quite fully know or trace the genealogy of the surveillant assemblage as it operates well outside our general purview, hidden in the depths of abstracted data flows and inaccessible digital spaces. The surplus of data that we leave behind in almost everything we do, whether we as individuals consider the data consequential or not, are fed into powerful computing systems that analyze these immeasurable data sets—or big data—and create webs of unexpected correlations for the purpose of uncovering "hidden patterns or insights" (Ferguson 8). Although humans serve as the building blocks of big data (9), the indiscernible and rhizomatic infrastructure of the surveillant assemblage is what enables

the state, its law enforcement apparatuses and corporations, to watch us in ways that we cannot watch them or even ourselves.

In this one-sided seeing dynamic, the surveillant assemblage highlights the imbalance of power that is built into emergent processes and dynamics of watching in the digital age. There may perhaps be no other time in history in which watching the watchers is more necessary and relevant than it is now. What remains to be seen is how acts of digitally-based, counter-surveillance, resistance or activism, can fulfill their objectives without being ultimately subjected, used or consumed by the rhizomatic offshoots of the larger surveillant assemblage. Although there does seem to be a general awareness of a growing and pervasive culture of surveillance, particularly by activists and social movements, activist practices continue to demonstrate an entrenched reliance on digital and social media platforms that tend to be insecure (Dencik et al. 8).

The proliferation of the surveillant assemblage and its advancements in digital systems and technologies, enable social control and confinement without the use of physical or spatial structures. Jackie Wang argues that these constant technological advancements allow carcerality to "bleed into society" (39), making it "even possible to imagine a future where the prison as a physical structure is superseded by total surveillance without physical confinement" (40). For the time being, it takes no vivid imagination to see the public and private spaces around us as "invisible cells" (41). With big data and predictive analytics alongside emergent surveillance technologies, including those that make use of biometrics, these new modalities of watching are used to sort

"people into categories, assigning worth or risk, in ways that have real effects on their life-chances" (Lyon, *Surveillance as Social* 1). As a result, racialized people and marginalized groups already targeted by the carceral state are also algorithmically targeted for increased surveillance, behavior modification and demobilization (Wang 41).

As the effects of this non-penal, carceral apparatus are internalized by some, a different panoptic model begins to take shape. In the digital reconfiguration of power relations, and the way in which these relations are internalized, a new carceral ideology and understanding of mass incarceration emerges, marked not only by the physical forces and institutions of confinement but also by those that are non-physical and more inconspicuous. In fact, over the last decade, Jamileh Kadivar observes that governments, law enforcement agencies and security services have relied on "[s]ocial media platforms and mobile phone devices a[s] the main places for collecting information and surveilling users" (169). Security researcher Matt Mitchell adds that, "'[i]f you're black or brown, your social media content comes with a cost—it's a virtual prison pipeline'" (qtd. in Joseph). While this rhizomatic expansion may have no traceable or observable beginning or end, this dissertation project situates the modern evolution of the surveillant assemblage within the state and its multiple uses of its rhizomatic offshoots as part of a predominantly digital, racial and discriminatory carceral apparatus.

Although the mass production of data on its own does not fuel racist or discriminatory practices, attempts to make sense of these humanly, unquantifiable flows of big data requires ownership or access to a different means of production than what Karl

Marx outlined in *Capital: A Critique of Political Economy, Volume 1*. In the case of computing technology and big data, what is more significant than owning the old means of production is owning or having access to what we might call the 'means of prosumption,' the production, commodification and exploitation of the surplus value generated in the form of digital labour and information capital (Ritzer and Jurgenson 14; Lupton 48; Fuchs 297). In this more contemporary and abstracted interpretation of capitalist production, power relations, social constructions and non-physical carcerality are sustained, enforced and constantly adapted. Those with control over the means of prosumption have the power to control how and who become objects for surveillance and subjects of surveillance. More often than not, control over the means of prosumption—or the technologies, systems, databases and algorithms that make prosumption possible—is leveraged not by ordinary civilians but by those in power.

With the abstract nature of what José van Dijck calls "dataveillance" (205), surveillance occurs under a cloak of imperceptibility, a form of watching that differs from conventional surveillance by continuously monitoring data flows without any specific or predetermined purposes (205). Since this form of watching requires specialized knowledges in order to make these less visible and digital manifestations of power visible, the abstract nature of data flows often allows exploitation and abuses of power to evade being subjected to crime control discourse. David Garland contends that crime control is characterized by "formal controls exercised by the state's criminal justice agencies…and the informal social controls that are embedded in the everyday activities

and interactions of civil society" (5). Similar to Foucault's carceral archipelago, Garland describes crime control as a field that relies on a network of formal and informal social controls, both of which view criminological epistemology—particularly since the end of the welfare state in the 1970s—according to theories of control that view crime not as a problem of deprivation but, rather, as a problem of inadequate controls (15).

The criminological ideas that followed this era began to view crime as an act that "self-serving, [and] anti-social" individuals were naturally and strongly attracted to, unless there were robust controls in place to deter their innate criminal proclivities (15; Muhammad 4). With an established history of colonial violence and the depiction of racialized people as inherently criminal and devious, the leap into this new understanding and epistemology of criminology was not a difficult one to undertake. This shift placed racialized people and communities squarely in the crosshairs of the state and its white settler population, as those with a 'natural' disposition towards crime were those who were long ago marked and seen as objects and subjects of surveillance and confinement.

Crime discourse is a phenomenon that is culturally formulated (Garland 163). In what Garland refers to as "the 'crime complex' of late modernity," crime is characterized by a series of distinctive beliefs, attitudes and assumptions that are difficult to dispel once they are culturally embedded (163). In these cultural and discursive formations, high crime rates and insecurity are viewed as a normal and expected part of social life (163). They are politicized and represented in the media and popular culture in emotive terms as a way of triggering fear and resentment in the general public (163). They also tend to

dominate the discourse surrounding public policy so much so that criminal justice is seen as inadequate in fighting and controlling crime, giving rise to an individualized and privatized market for increased security (163).

As Garland's crime complex theory demonstrates, the rise in crime rates since the 1970s was not simply a product of the diminishing welfare state. Instead, they resulted from "a series of adaptive responses to the cultural and criminological conditions of late modernity…responses [that] did not occur outside of the political process, or in a political and cultural vacuum" (193). In these political and economic shifts away from the welfare state toward a neoliberal one (Isin 184-185; Keil 588; Harvey 23, 56-57), crime control and the criminal justice system followed suit, emphasizing a culture of social relations that were "more exclusionary than solidaristic, more committed to social control than to social provision, and more attuned to the private freedoms of the market than the public freedoms of universal citizenship" (Garland 193). This political and cultural shift in social relations created and exacerbated rifts between different people and communities in their everyday lives. As crime and insecurity became a more pressing issue for both the state and for individuals, the idea of social cohesion and solidarity took a backseat to the competitive and market-driven logic of insecurity (Harvey 77).

The free-market ideology of neoliberalism ushered in punitive policies that continued to undermine racialized populations. In the US, Loïc Wacquant observes that the deterioration of the social state occurred alongside "the stupefying ease and speed with which the penal state arose" (*Punishing* 48). In this process, racial divisions and

politics were perpetuated by "the penal management of poverty, misperceived as a problem affecting blacks first and foremost" (48). Poor Black mothers, in particular, were targeted during former President Ronald Reagan's neoliberal era of governance. Building on the long-standing construct and political symbol of the 'welfare queen,' Ange-Marie Hancock notes that, "[s]tereotypes of Black women as overly fecund and licentious [which] lingered from slavery…[were also] used to justify White males' sexual abuse of Black women" (31). Moreover, these stereotypes were deployed during the Reagan administration to depict single, poor Black mothers as freeloaders, cheating the system and "living off the hardworking American taxpayers" (57; Wacquant, *Punishing* 84). Similarly, in Canada's dwindling welfare state, poor Black and other racialized people were represented as "lazy and idle…scapegoated as freeloaders and possible criminals" (Maynard 82).

The cutbacks to social programs and government supports that took hold in the 1980s across the US, the UK and Canada (82), drew particular attention to the enduring myth and trope of Black criminality in decaying inner cities (Garland 85). In this way, blackness has almost always been characterized by a sense of foreignness. For Black individuals and communities, public space became a prison of sorts, where their spatial segregation was a way of racially surveilling and quarantining (178; Shabazz 40; Wacquant, *Punishing* 12, 203) their 'foreign' and 'dangerous' bodies from the 'familiar' and 'harmless' bodies of the state's white settler population (Muhammad 13). Deprived of resources and spatially segregated, Black people and communities were racially targeted

for surveillance and policing in their everyday lives in ways that "lack[ed] much of the liberty that one associates with 'normal life'" (Garland 178).

When race or religion "becomes a proxy for risk" (Bahdi 295), the basic rights and freedoms bestowed upon racialized citizens in their everyday lives and routines become of secondary concern to the state. As surveillance and policing techniques are deployed racially and spatially, little distinction is given to racialized individuals with or without legal status. Likewise, the surveillant gaze sees little to no difference between racialized bodies who are citizens and those who are not. When risk is read on or from the body (Bahdi 295; Razack, *Casting* 31) by humans or machines, racialized bodies, regardless of their legal status, run the risk of being seen or read as foreign or as "crimmigrants" (Aas 340). Katja Franko explains that the category of the crimmigrant revolves around a "type of politics [that] creates groups of subcitizens—or what might be termed 'outsiders inside'—who, although territorially included, find their citizenship status securitized and substantially depleted" (340). The notion of the crimmigrant can be conjured up in different ways and for different purposes. Whether we consider the prolonged detention of Francisco Erwin Galicia in June 2019, an eighteen-year-old American citizen who was detained by US Customs and Border Protection at a checkpoint in South Texas, over suspicion of fraudulent documents (Flynn), or the erosion of citizenship for Canadian Muslims at airports and border crossings, particularly those with dual-citizenship status (Razack, *Casting* 4; Thobani 242; Nagra and Maurutto

179), both represent examples of how race in space differentially shapes and permeates the concept of the crimmigrant in the western imaginary.

Since 9/11, many Canadian scholars have noted how the use of surveillance and racial profiling turned Muslim citizens into outsiders or second-class citizens (see Chapter 3). In Canada, this came to the limelight with the case of Maher Arar in 2002, a dual-Canadian and Syrian citizen who was detained by US authorities at John F. Kennedy International Airport, transferred extrajudicially to Syria only to be tortured and interrogated for over ten months, until finally being returned to Canada without facing any criminal charges, where he received a formal apology from the federal government and a ten million dollar settlement. In the months and years following the 9/11 attacks, spanning all the way from 2001 to 2019 in countries across the globe, Muslims and Muslim-majority countries continue to be the focus of terrorist discourse and state-based, counter-terrorist activities, including technologies aimed at generating intelligence, identifying terrorists and preventing terrorists from crossing borders (“2018 Public Report”; “Project Sharaka”; “Project Scorpius”; “Project Trace”). To make matters worse, mainstream news media outlets have continued to frame terrorist discourse as a largely one-dimensional racial, cultural or religious problem. As Karim H. Karim argues, Muslims are not only framed by the news media as enemies to the West, they are represented as the main source of terrorism in the West (80). One of the consequences of doing so has been the state’s failure to intervene in the increased backlash of anti-Muslim

violence that Muslims continue to face at the hands of the state and its white settler population (Nagra 57; Zine, "Islamophobia").

Across Canada, mosques have increasingly been vandalized ("Police-Reported"; Fagan), Muslim citizens have encountered verbal and physical harassment at unprecedented levels ("Police-Reported"; Zine, "Islamophobia"; Fagan) and, in January 2017, Alexandre Bissonnette shot and killed six Muslims while injuring another five at the Centre Culturel Islamique de Québec. Bissonnette was subsequently charged and convicted of six counts of first-degree murder and attempted murder (Riga) without facing any criminal charges related to terrorism. Instead of taking actions to protect Canadian Muslims against the rise of reported incidences of anti-Muslim violence, the state advocated and framed the "[i]ncreased collaboration between the real national-as-citizen and the law enforcement agencies of the state…as vital to the elimination of this [terrorist] threat to the security of both" (Thobani 226). Although Canada has recently added some homegrown, right-wing extremist groups to its current list of terrorist threats to national security, the framing and narrativization of the largest threat to national security remains linked to violent, religious ideologies and terrorist groups based out of Muslim-majority countries ("2018 Public Report"). Despite Minister Ralph Goodale's confidence that terms such as "'Sikh', 'Shia', and 'Sunni', among others…used to describe types of extremism in the 2018 Public Report on the Terrorist Threat to Canada…[were] never intended to encompass or malign entire religions" ("Statement by Minister"), the truth is that amidst the rise of white supremacism in Canada (Harris),

Canadian Muslims encounter more violence by being perceived as potential threats to national security.

In the collaboration between the state and the real national-as-citizen, it becomes apparent that those with "a constant hypervigilance—and a readiness to spring into action—against the inter-city based 'terrorist'" (Thobani 226), are those with a history of violence against racialized people. In what Sara Ahmed describes as "neighbourhood watch schemes," which began to surface in the US at the beginning of the neoliberal movement in the 1970s (26), the good or the real citizen participates in the purification of social spaces by always watching out for "the sounds and signs of that which is suspect and suspicious," working with the police to prevent these spaces from racial contamination (28). On a grander scale, this becomes part of a collaborative policing and surveillance project between the state and the citizens it empowers, allowing them to lay claim to a white national identity that defines national belonging through a language and discourse of threat and security (Nagra 62).

This security discourse has also focused quite intensively on issues of immigration (see Chapter 1). Indeed, immigration, refugees and illegal entry are issues that have been part of the security discourse for quite some time, predating the attacks on 9/11. Yet, even though the 9/11 hijackers entered the US legally through student visas and not as immigrants or refugee claimants, polls and media reports following the 9/11 attacks across the US and Canada pointed to increased public concerns over immigration laws and border policies that were perceived to be far too lax (Adelman 15). The perception of

Canada's weak border and border policies also came under fire in 2009 by former US homeland security secretary Janet Napolitano and the late senator John McCain, both of whom falsely claimed that some of the 9/11 hijackers arrived in the US through Canada (Goodman). These sentiments and perceptions were subsequently actualized by the introduction of new or improved enforcement measures and legislation specifically aimed at immigration. As Anna Pratt observes, the multi-agency Integrated Border Enforcement Teams developed by the US and Canada in 1996—as a way of combatting cross-border crime—were expanded after 9/11 to include "terrorist threats to national security" (197). In Canada, a new intelligence branch was added to Citizenship and Immigration Canada "to improv[e] intelligence gathering, screening, and managing security" (197).

Furthermore, a new security budget in December 2001 pledged nearly eight billion dollars over a five year period (197) "to Canada's 'security partners' in order to 'build personal and economic security by keeping Canadians safe, terrorists out and our border open and efficient'" (qtd. in Pratt 198). In the wake of 9/11, the race-based public panic that ensued was mobilized against racialized refugees, even though there was no evidence to suggest or connect the terrorist attacks to refugees or refugee claimants in Canada (198). In 2002, the Immigration and Refugee Protection Act (IRPA) was introduced as the main legislative framework to regulate and oversee immigration to Canada, while providing the Immigration and Refugee Board (established as an independent administrative tribunal in 1989), with the statutory authority to make decisions related to immigration and refugee matters. Shortly thereafter in 2003, the

Canada Border Services Agency (CBSA) was founded as the federal agency not only in charge of facilitating the flows of people and goods in and out of Canada, but also as the agency primarily in charge of enforcing the regulations detailed in the IRPA.

Whether imposed formally through state legislation and apparatuses or informally through the hypervigilant citizenry, profiling and discrimination have become ways in which the carceral archipelago has metastasized into almost every aspect of daily life for racialized people.[1] As a 2017 report by the Ontario Human Rights Commission outlines, Black, Brown and Indigenous populations experience racial profiling and discrimination on city streets by police and other citizens; in retail spaces by employees and private security; at airports by border authorities or in other hubs of public transportation; in public facilities such as libraries or recreation centres; as well as a range of government institutions and services that include healthcare, education and subsidized housing ("Under Suspicion"). As mounting evidence and scholarship point to profiling and discrimination as vital components of the carceral archipelago, the state has turned to more obscure methods of profiling by using data-driven and predictive surveillance systems and technologies. Often touted as race-neutral and objective instruments of policing and security (Bigo 60; Ferguson 5), the use of surveillance technologies have become widespread, perhaps most recognizable as closed-circuit television (CCTV). But

[1] Examples of everyday racial profiling and discrimination are more prevalent for Black and Indigenous populations in Canada, and include being arrested while waiting for coffee, being tracked and stopped while shopping, and being asked to prepay for meals at restaurants to prevent what is commonly referred to as 'dine and dash' (Bundale).

as Clive Norris and Gary Armstrong show in their study of CCTV control rooms in Britain, Black men and Black youth "were systematically and disproportionately targeted, not because of their involvement in crime or disorder, but for 'no obvious reason' and on the basis of categorical suspicion alone" (163). Not only did Norris and Armstrong attribute these racist and biased patterns of target selection to the assumptions and stereotypical attitudes of CCTV operators against Black youth and ethnic minorities (169), they also connected the disproportionate targeting of Black youth to policing policy, specifically within the inner city (171).

Evidence of racial bias and discrimination in policing, policy making and technology can be found across many law enforcement agencies, including the TPS. Ontario's carding policy, used by the TPS and other policing agencies to disproportionately target Black men and Black youth ("A Collective" 52), yielded enormous sets of race-based and personal data that were stored in police databases, even though many of these street checks did not involve the investigation of any criminal activity (Tulloch). As the collection of these data sets grew exponentially alongside discriminatory policing policies and practices, so did the use of computers and record management systems (Tulloch). With no other viable means of accessing or making sense of these massive troves of data, the police turned to advances in technology in order to facilitate discriminatory acts of policing, using a network of technology-based tools that relied on systems of racialized knowledge and visibility.

For Oscar H. Gandy, technology is implicated in discrimination by the outcomes or results it produces (30). In complex information technologies such as statistical analysis, discriminatory surveillance is "a technologically enhanced process that begins with identification, proceeds through classification, and gathers momentum at the point of evaluation" (30). Based on an algorithmic analysis of data, this process attempts to make predictions about what someone will likely do without being subjected to any form of critical assessment and regulatory control (30). Since most public assessments of technology are reactive, usually arising as a response to some crisis or event such as 9/11, imposing routine assessments, controls and regulations on emergent surveillance systems and technologies to curb issues of racial discrimination rarely occurs (30). Regardless of how racial profiling is used, it reinforces long-standing cycles of discrimination with and without the use of technology. The disproportionate number of stops, searches, charges, convictions and sentences that racial profiling produces is used to justify further acts of racial discrimination (38). As Gandy shows, these paradoxical and discriminatory justifications rely on flows of biased and inaccurate data (38), which are used to predict potential deviancy or criminality in certain groups, without introspectively examining the systemic bias behind the profiling embedded in both human and technological, decision-making processes (see Chapter 2).

The targeting of certain groups using technology has morphed into what Lyon calls the "data dragnet" (*The Culture* 70). This form of data collection involves strategies that effectively "vacuum up" all sorts of personal data (70). With the state's increased

reliance on surveillance technologies to assist or, in some cases, entirely take on the work of watching, the collection of any and all personal data, digital or otherwise, has become the preferred means of surveillance and dataveillance. The ubiquity of these forms of watching allows for more comprehensive and inconspicuous ways of monitoring and profiling individuals and groups. While video and camera surveillance still play vital roles in public and private surveillance, most mass surveillance nowadays is achieved in less visual ways, and in ways that see not through the eyes or lenses of technology but through the enormous volumes of data that require computational processing. Credit card transactions, the use of mobile phones, online banking and shopping, general internet usage and participation in social media are just a few ways in which technology is used for watching in ways that do not rely on visual modes of seeing (70).

Chapter 1 begins by historicizing the carceral apparatus, drawing on Indigenous scholarship (Smith, *Decolonizing* 1999; Proulx 2014; Smith, *Liberalism* 2009; Proulx 2014; Thomas and Green 2019) to highlight some of the parallels between the treatment of Indigenous peoples and the treatment of detainees in Canada's immigration and detention system. I also draw on critical race theory (Thobani 2007; Kazimi 2012), and citizenship and migration studies (Sadiq 2009; Kazimi 2012; Silverman 2014) to explore the ways the state considers undocumented refugees as threats to national(ist) security. This is particularly the case for people from Sub-Saharan Africa and South Asia, where large segments of rural populations have been undocumented from birth (Sadiq 78). Thus, this chapter interrogates the practice of detaining refugees in IHCs and in maximum-

security correctional facilities on the basis of missing or non-existent, state-issued identity documents. Since identity documents have become inseparable from the notion of identity and integral to everyday life by permitting or restricting access to employment, health care, education and a range of other institutional supports and services, I argue that when undocumented refugees appear at or within the state's borders, their bodies are viewed as illegitimate and, therefore, treated as if they are abnormal. In other words, they are viewed by the state as "human monsters" (Foucault, *Abnormal* 55) who must be inhumanely detained because their undocumented existence violates the very nature and order of the "'juridico-biological' domain" (56).

Through a case study of Ebrahim Toure, I examine Canada's carceral network of immigration holding centres (IHCs) and the backbone of its statutory framework provided by the IRPA. As a failed and undocumented refugee-claimant from West Africa, Toure was arrested and detained by the CBSA in 2013. Along with Kashif Ali, who spent seven years in immigration detention without being convicted of a crime prior to being released in 2017, Toure has become one of the longest-serving immigration detainees in Canadian history. A case study of Toure provides us with a glimpse into Canada's vast immigration and detention system, which has been frequently criticized for its arbitrariness, discrimination, cruelty and violations of international human rights (Gros and Van Groll 87; Molnar and Silverman, "Migrants"). Drawing upon news reports, legal case studies, CBSA enforcement manuals and the findings from the "Report of the 2017/2018 External Audit," this chapter interrogates the lack of federal oversight over the Immigration

Division (ID), while underscoring its pervasive and adjudicative culture of discrimination and inconsistency ("Report"), especially for detainees with pre-existing and newly-developed mental health issues (Gros and Van Groll 72).

It also considers how carcerality affects immigration detainees outside of Canada's formal, designated carceral facilities. In cases where undocumented refugees or detainees are released from detention but cannot be deported (e.g. Toure), the physical, mental and emotional traumas they endure while in detention—and often as a direct consequence of being undocumented—follow them outside of detention and into their everyday lives. I look at the lasting carceral effects that detention has on the mental health of detainees, which are exacerbated by the post-carceral, surveillance systems and mobile carceral technologies that are used by the state to monitor their movements in public and private spaces. I introduce the term 'techno-carcerality' to theorize the ways in which immigration detainees continue to be physically, mentally and spatially confined outside of detention, focusing on the introduction of Canada's alternatives to detention (ATD) program in 2018. As such, this chapter is largely informed by carceral studies (Foucault, *Discipline* 1977; Baron 1988; Smith, *Liberalism* 2009; Gill 2013) and by scholarship that examines the intersections between carcerality and mental health (Klein and Williams 2012; Cleveland and Rousseau 2013; Gros and van Groll 2015).

Chapter 2 picks up on the notion of public space as carceral space by focusing on the relationship between race, policing and technologies of surveillance. This relationship, however, also includes a focus on technologies of "sousveillance" (Mann et al. 332) and

"dark sousveillance" (Browne 21). For Steve Mann et al., sousveillance describes a type of bottom-up surveillance that uses technologies to allow ordinary individuals to observe those in power (332). With dark sousveillance, Simone Browne extends this definition as a site of critique that "speaks to black epistemologies of contending with antiblack surveillance, where the tools of social control in plantation surveillance or lantern laws in city spaces and beyond were appropriated, co-opted, repurposed, and challenged in order to facilitate survival and escape" (21). I use a case study of the fatal shooting of Sammy Yatim in 2013 by Constable James Forcillo of the Toronto Police Service (TPS), not to foreground the controversial shooting itself but to emphasize how the shooting, which was recorded by civilian mobile phone cameras and shared on YouTube, was mobilized by state apparatuses as a way of introducing further state surveillance technologies in the form of police body-worn cameras (BWC). Working with news reports, scholarly studies, reports from the Ontario Human Rights Commission and those published by the TPS, this chapter unravels some of the connections between the long histories of racial oppression, segregation, state apparatuses and emergent surveillance technologies, primarily as instruments of ongoing racial discrimination. Although police BWCs are generally seen as surveillance technologies that offer the public greater accountability and police transparency (Iacobucci 263; Brucato 48), I argue that what has led to the relatively recent and widespread adoption of BWCs is, counterintuitively, an increase in acts of sousveillance and dark sousveillance that have been captured by smartphones and disseminated by users across social media platforms.

Moreover, this chapter examines the histories, policies and technologies that continue to contribute to a marked overrepresentation of Black people involved in violent police encounters ("A Collective" 19). Informed by Black studies and critical race theory (Bass 2001; Mariam and Bonner 2014; Maynard 2017; Hogarth and Fletcher 2018), journalism and new media (Allan 2013; Andén-Papadopoulos 2014), and critical technology and police studies (Ericson and Haggerty, *Policing* 1997; Brucato 2015; Ariel et al. 2016; Ariel et al. 2017), this chapter considers the dangerous work that goes into recording and disseminating these all too common instances of race-based police violence as a type of free and exploited labour, which is frequently, although not always, taken on by Black people. I delve into the bodily and digital labour that goes into what Ben Brucato calls "cop watching" (46), and contend that both "surveillant assemblage" (Haggerty and Ericson 606) and "surveillance capitalism" (Zuboff, "Big Other" 75) have allowed law enforcement agencies to expropriate the need for Black people to participate in democratic acts of counter-surveillance. Informed by scholarly work in surveillance studies (Mann 1997; Adey 2003; Mann et al. 2003; Fuchs 2011; Van Dijck 2014; Zuboff 2015; Lupton 2016; Ferguson 2017; Zuboff 2019), I consider the ways in which racist and discriminatory policing practices have also become less perceptible with the turn to data-driven and predictive policing programs.

In Chapter 3, the themes of race, surveillance and space continue as I historicize and contextualize them within the spatial enclosure of the modern airport. I examine how the historical, cultural, social and technological development of the airport's security and

surveillance infrastructure, continue to profile and target Muslim travelers through racialized knowledge production and the emergence of biometric systems and technologies. Rather than use the 9/11 attacks as the genesis for the anti-Muslim tropes and cues that precipitate acts of racial profiling by the CBSA, I trace the beginning stages of this racialized knowledge production back to what David Pascoe refers to as the "aerodrome of revolution" (191). It is during this time in the late 1960s and early 1970s that Islam and the Middle East first became associated with aviation terrorism through acts of terror, carried out by a revolutionary socialist movement known as the Popular Front for the Liberation of Palestine (PFLP). After contextualizing this history within the aviation industry, I transition to the modern post-9/11 airport where, although no official racial profiling policies exist, CBSA officers are trained to visually identify Muslim travelers as potential terrorist threats (Nagra and Maurutto 177; Pratt and Thompson 632). The effects that these racialized knowledges and racist discriminatory practices have on Canadian Muslims are far-reaching and anxiety-inducing, creating spaces in which Muslims citizens are routinely deprived of their rights and freedoms, and deemed to not hold the same cultural currency as non-Muslim Canadians (Nagra and Maurutto 179).

By using secondary data analysis of Baljit Nagra's and Paula Maurutto's ethnographic study of the experiences of Canadian Muslims at airports and border crossings (2016; Nagra 2017), I build on Ghassan Hage's understanding of "stuckedness," where waiting out a crisis or prevailing from a situation of stuckedness demonstrates a sense of endurance, resiliency and heroism (100). I conceptualize what I refer to as the

'anxiety of stuckedness' to allude to the post-9/11, racial and spatial dynamics of stuckedness that are experienced by Muslim travelers at the airport—a type of stuckedness that is not always alleviated or heroically celebrated through a resiliency of waiting out a crisis. In fact, I argue that processes of waiting or stuckedness at the airport for some Muslims can constitute crises in and of themselves, as they are often fraught with histories of violence, fears and anxieties that are quite specific to Muslim traveling experiences following the attacks on 9/11.

In addition to drawing on critical race theory (Thobani 2007; Razack, *Casting* 2008; Nagra 2017), mobility and migration studies (Pratt 2005; Pratt and Thompson 2008; Rana 2011; Gill 2013; Walters 2016), and citizenship studies (Glenn 2002; Nyers 2006; Nagra and Maurutto 2016; Nagra 2017), the latter half of this chapter offers a critique of the airport's biometric turn as the panacea to issues of airport and airline security. I trace this turn back to the biometric pseudoscience ingrained in British India and the transatlantic slave trade (Cohn 1996; Cole 2001; Browne 2015). This genealogy of biometrics reveals how modern airport biometric systems that rely on facial recognition particularly after 9/11, do so in ways that promulgate Muslim terrorist tropes. Thus, the anxiety of stuckedness for Canadian Muslims at the airport is compounded by the reality that they can be rendered stuck by both human and non-human operators. Guided by the theoretical frameworks of surveillance and critical communication studies (Adey 2003; Amoore 2006; Nakamura 2009; Gates 2011), this chapter challenges

prevalent claims concerning biometric technologies as solutions to airport security and mobility.

Chapter 1

Re-thinking Canada's Immigration and Detention System

> "'Indeed, people speak sometimes about the 'animal' cruelty of man, but that is terribly unjust and offensive to animals, no animal could ever be so cruel as a man, so artfully, so artistically cruel'."—Fyodor Dostoevsky, *The Brothers Karamazov: A Novel in Four Parts with Epilogue* (238).

Introduction: A History of (non-)Institutional Carcerality

Prior to Confederation and certainly well after it, Canada has repeatedly demonstrated its proclivity for state violence, race-based surveillance and carcerality. As a nation that was founded on the erasure of Indigenous peoples and cultures by French and British colonialism as early as the 1600s, Canada's narrative of nationhood is largely defined by the violence of western-European colonialism. As Sunera Thobani explains, the violence of this colonial encounter gave rise to "an order that relied on the transformation of the 'native' into a 'thing,' an object of exploitation" (37). This colonial order became the way through which the nation and its subjects sustained the violence of the colonial process, which eventually became regulated through legislation (40). For example, the Gradual Civilization Act in 1857—later consolidated as part of the Indian Act in 1876—sought the assimilation of Indigenous peoples in Canada by promoting enfranchisement ("The Indian Act"). As a conglomerated piece of colonial legislation, the assimilative policies ingrained in the Indian Act sought "to terminate the cultural, social,

economic, and political distinctiveness of Aboriginal peoples by absorbing them into mainstream Canadian life and values" ("The Indian Act").

Not only did these laws and policies (il)legally legitimize colonial relations, acts of violence and subjugation against Indigenous peoples, they legitimized the claims of European "sovereignty over these lands against those of other European powers who coveted the same" (Thobani 43). These forms of systemic violence and race-based surveillance and carcerality are perhaps most apparent with the institutionalization of the residential school system. From the 1880s to the 1980s, the Canadian residential school system forcibly separated children from their families and communities, placing them in state supported schools operated by Christian organizations and churches. Deemed incompatible with European standards of the ideal family, Indigenous children became part of a widely sanctioned colonial project that endeavoured to 'civilize' them by stripping away their Indigenous identities, ways of knowing and ways of life (119). By 1920, this practice had become systematized under the Indian Act, making it legally mandatory for all Indigenous children to attend residential schools ("The Residential").

Coincidentally or not, the emergence of the residential school system corresponded with the birth of Canada's network of federal penitentiaries. The passage of the first Penitentiary Act in 1868, created the first network of federal prisons across Canada, including penitentiaries in St. John, New Brunswick and Halifax, Nova Scotia ("Penitentiaries"). Soon after, construction on more federal penitentiaries began with St. Vincent de Paul in Quebec in 1873, followed by Manitoba Penitentiary in Saskatchewan

in 1877, British Columbia Penitentiary in 1878 and Dorchester Penitentiary in New Brunswick in 1880 ("Penitentiaries"). During the 1880s, the government also began the process of establishing a web of residential schools across Canada, forcing Indigenous children into school-based, carceral institutions that were often located far from their families and communities as part of a governmental "strategy to alienate them from their families and familiar surroundings" ("The Residential"). Unlike the expansion of federal penitentiaries, the residential school system appears to mark the beginning of Canada's place in what Michel Foucault called the "carceral archipelago" (*Discipline* 297), a vast network of carceral institutions that blurred and homogenized the operationalization of disciplinary mechanisms and modes of confinement.

The residential school system also signaled the beginning of a new carceral ideology in Canada. Operating outside the matrix of federal penitentiaries and disassociated from the laws that governed and regulated the growing number of federal prisons, which later became subject to the Penitentiary Act of 1906, the residential school system functioned as part of a state-led, administrative carceral system rather than a criminal one. Engaging in a willful amnesia of its past and current atrocities (MacDonald 306), Canada abdicated its violence against Indigenous peoples and lands by using its power to render some of its violence invisible. David B. MacDonald argues that in addition to acknowledging the cyclical and intergenerational trauma that was caused by the violence of the residential school system, Canadians also need to acknowledge residential schools as part of a system that initiated and facilitated "genocide and cultural

genocide" (306; Thomas and Green 85).[2] Andrew Woolford and James Gacek employ the term "genocidal carcerality" (401) in their analysis of the Fort Alexander Indian Residential school in Manitoba, Canada. They do so to not only "examine the ways space is implicated in the physical, biological, and cultural destruction of group life" (401), but to also resist and critique attempts that reduce genocidal carcerality to the structural, architectural or spatial dimensions of the residential schools themselves (401).[3]

Both residential schools and reserve lands became vital components of liberal Canada's expansive carceral archipelago. Keith Douglas Smith argues that Canada's liberalism, which demanded "compliance with its values and energetic participation in its objectives" (15), was one of the driving forces behind the nation's new and expanding disciplinary apparatuses (15). Residential schools and reserves joined factories, hospitals, asylums and prisons "as instruments designed to 'normalize,' or to segregate and reform those who exhibited behaviour that was inimical to the maintenance of liberal order" (15-16). Not afforded the liberal protections that were bestowed upon white settlers for whom the concept of liberalism was created by and for, Indigenous peoples

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[2] For MacDonald, the residential school system meets the threshold for genocide under the United Nations Genocide Convention (UNGC). Not only does the forcible removal of Indigenous children constitute an act of "biological genocide," the kidnapping of nearly one-third of Indigenous children who were compulsorily required to attend residential schools also met the percentage of what quantifiably constitutes genocide under the UNGC and international case law (310).

[3] Deborah Chansonneuve has shown how the "long-term social and psychological impacts" of the residential school system have continued to affect Indigenous children, their families and communities, "seen today in disproportionately high rates of suicide, addictions, and violence in the Aboriginal population" (12).

and those who were seen to exhibit what the state or its white settlers deemed as "'unprogressive' behaviour, or logics that were condemned by liberalism" (15), were targeted by the emerging state surveillance and carceral apparatuses for discipline and/or exclusion. In this way, liberalism as both an ideology and as hegemony began to flourish (16).

This carceral ideology later became ingrained in Canada's subsequent immigration policies, affecting racialized people who were not original inhabitants of Canada. As Ali Kazimi notes, "Canada's immigration strategy was based on the desire to build a nation imagined as a 'White man's country'," offering the most lucrative incentives to western and northern Europeans (43). In stark contrast to Canada's white-European immigration policy, Chinese immigrant men who were brought to Canada in the mid-to-late 1800s as cheap labour, specifically for the purpose of completing the most difficult and dangerous parts of the Canadian Pacific Railway (CPR), became expendable shortly after its completion. Under the Chinese Immigration Act in 1885, after a period in which thousands of Chinese immigrants died working on the CPR, Canada imposed a head tax legislation on subsequent Chinese immigrants (46).

A few years later in 1907, a change in the British Columbia Provincial Elections Act ensured that "'[n]o Chinaman, Japanese, Hindu or Indian [would] have his name placed on the register of voters for an electoral district, or be entitled to vote at any election'" (qtd. in Kazimi 56). Effectively, Asian and South Asian residents of Canada were deprived of their right to vote, not only in provincial elections but in federal

elections, since federal voting lists were compiled from data that were obtained from provincial voting lists (56). With one of the prerequisites for legal citizenship contingent on one's right to vote, racialized people in Canada "became non-citizens, and, in a legal sense, aliens" (56). Similar to Indigenous peoples, Asian and South Asian residents were not privy to the liberal protections that were afforded to white settlers. As non-citizens or aliens, the existence of racialized immigrants in a white settler state made them vulnerable to the state's surveillance and carceral apparatuses.

We can see this explicitly reflected with the arrival of the Komagata Maru in Vancouver's harbour in 1914. The Japanese-owned ship that carried 376 South Asian migrants aboard, chartered by Gurdit Singh, a Sikh entrepreneur, was forced by Canadian authorities to anchor just off Vancouver's shore (7). As British subjects from British India, the migrants believed—and were repeatedly assured—that they were entitled by right to settle anywhere within the British Empire, including Canada (7). However, what soon became apparent to these migrants was that the spoils of colonization were not intended for racialized subjects of colonization. Instead, the passengers aboard the Komagata Maru were detained on board and at sea without reason, denied access to legal counsel and deprived of basic necessities such as food and water (7). These tactics were deployed by the Canadian government in order to make the ship and its passengers turn back voluntarily rather than forcibly—an attempt to avoid any future legal challenges should they later be raised in Canadian courts (7).

With the introduction of the continuous journey regulation to Canada's Immigration Act in 1908, which required immigrants to enter "Canada by direct journey from their country of birth or citizenship" (7), the court ruled that passengers aboard the Komagata Maru could not disembark in Canada. The Komagata Maru's stop over in Hong Kong after departing from India was seen as a violation of the continuous journey regulation (7).[4] Radhika Mongia argues that this regulation was one of many meant to racially discriminate, limit and prevent the transnational mobility and migration of Indian people, stemming from "broader anti-Asiatic sentiments, policy, and legislation" of settler colonies that perceived themselves as racially white (115). Two months after the Komagata Maru arrived in Vancouver's harbour, it became the first ship with migrants to be turned away from Canada before eventually returning to India (8).[5]

The dangerous precedent set by the turning away of migrants aboard the Komagata Maru reared its ugly head again in 1939, this time off the east coast of Canada. The St. Louis, a German steamship carrying over nine hundred Europeans, most of whom

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[4] The regulation served as a legal and discriminatory instrument by which Canada prevented South Asian immigration, since "there were no ships that made a continuous journey from India to Canada" (McRae). The Komagata Maru began its direct journey to the shores of British Columbia from Hong Kong and so the passengers aboard the ship were considered in violation of the 1908 immigration regulation (McRae).

[5] The disciplinary and carceral effects of the ship's detention on Canadian waters did not end with the turning away of the Komagata Maru. After the ship returned to India, "British authorities suspected that the passengers were revolutionaries arriving to make trouble," and an altercation between authorities and passengers ensued (McRae). In the end, sixteen passengers were shot and killed and over 200 passengers were imprisoned (McRae).

were German Jews that were fleeing Nazi pogroms, arrived on Canada's east coast after being turned away by Cuba and the United States (US) (8). With the support of Prime Minister William Lyon Mackenzie King, the head of the Immigration Branch of the Department of Mines and Resources declared that, "'no country could open its doors wide enough to take in the hundreds of thousands of Jewish people who want[ed] to leave Europe'" (qtd. in Kazimi 8). Consequently, Canada followed the decisions made by Cuba and the US and turned the St. Louis away, forcing the German steamship to return to Europe where 254 Jewish passengers subsequently perished in Nazi concentration camps (8).

Unlike the Komagata Maru and the St. Louis, the 347 white European refugees comprised of mostly Estonians aboard the SS Walnut, fleeing oppression from the former Soviet Union in 1948, arrived in Halifax, Nova Scotia. Not only were these refugees welcomed by Canada and granted permission by the government to disembark, their arrival was later memorialized with a display at Halifax's Pier 21, the location of Canada's national immigration museum (8). While the SS Walnut embarked on its journey from Sweden instead of Estonia, where the vast majority of refugees were born and held citizenship, Canadian authorities chose not to invoke the continuous journey regulation as they had previously done for those aboard the Komagata Maru. This is but another example of how race, religion and ethnicity were used to create what Kazimi calls "'desirable' and 'undesirable' immigrants," a practice that was "embedded in Canada's official immigration policies from the time of Confederation" (8).

Although the 'White Canada' immigration policy was officially dissolved in 1967 (8), its effects are still felt by racialized people seeking refugee status or asylum in Canada today. Statistics from the United Nations Refugee Agency indicate that more than half of the world's refugees come from three countries: Syria, Afghanistan and South Sudan ("Figures"). It is often these refugees and others from countries predominantly in the Middle East and Africa, who are forcibly displaced because of war, conflict, persecution, human rights violations and, increasingly, environmental and climate change. As a result, people fleeing from these parts of the world tend to be targeted by the vast network of immigration detention centres across Canada and the world.

The first section of this chapter briefly outlines the emergence of Canada's place in the carceral archipelago. Prior to the more traditional institutions of incarceration that were established across Canada as federal penitentiaries by the late-1800s, Canada had already begun to subject Indigenous peoples to less traditional forms of carceral violence and confinement. As Canada attempted to conceal the nearly century-long, prison-like rhythms and spatial dynamics of its residential school system, as well as the restriction of freedom and mobility imposed through its pass system, Indigenous peoples were confined in ways that mimicked and eclipsed more conventional notions of control, incarceration and confinement. With these systemic and everyday examples of carcerality, Canada demonstrated how its use of the carceral archipelago functioned as a means of racially and spatially controlling and confining Indigenous peoples in an emerging white settler state (Baron 29-30).

In the second section of this chapter, I look at Canada's immigration and detention system through a case study of Ebrahim Toure and the statutory framework provided by the Immigration and Refugee Protection Act (IRPA). As a failed and undocumented refugee-claimant from West Africa, Toure was arrested by a Toronto Police Service officer in 2013, pursuant to a Canada-wide arrest warrant issued by the Canada Border Services Agency (CBSA). The CBSA claimed that Toure missed a removal appointment by mail and, therefore, posed a flight risk. Toure, on the other hand, maintains that he never received a removal appointment in the mail (Kennedy "Caged"). His failure to appear for this removal hearing and his subsequent inability to obtain any state-issued documentation to verify his identity, led to Toure's four and a half year detention at the Central East Correctional Centre (CECC) in Lindsay, Ontario. Following his detention at the CECC, Toure was then transferred to the Greater Toronto Area (GTA) IHC for another year of detention, until Superior Court Justice Alfred O'Marra ruled that his indefinite detention at the CECC had "amounted to 'cruel and unusual' treatment and violated the Charter of Rights and Freedoms" (Kennedy "Maximum-Security"). Ultimately, O'Marra's ruling assisted with Toure's release from detention at the GTA IHC on 21 September 2018.

Drawing on the "Report of the 2017/2018 External Audit" commissioned by the chair of the IRB in 2017, the third section of this chapter engages in a critical analysis of the statutory framework of the IRPA, examining the roles of the Immigration Division (ID) of the IRB and the CBSA. In the series of recommendations put forth by the auditor

in the report, there is a repeated call for "closer oversight of individual cases" and fairer detention practices, particularly as they pertain to "detention review process[es] for persons with mental health problems" ("Report"). In addition, I consider how the IRPA infringes upon the Canadian Charter of Rights and Freedoms by briefly looking at relevant case law. I explore the problematics of the CBSA's use of the National Risk Assessment for Detention (NRAD), and conclude that its purpose is both unreliable and unnecessarily punitive. I argue that the NRAD is used haphazardly and systematically to prolong detention without having the decisions of individual CBSA officers subjected to any collective oversight or approval.

The fourth section analyzes the practical and theoretical implications of what it means to be an undocumented refugee. As is the case with many refugees including Toure, the act or process of acquiring state-issued identity documents is not always possible. Magnified following the terrorist attacks on 11 September 2001 (9/11), where concerns about terrorists using fraudulent documents to board airplanes (Monahan 55-56) ran rampant, state-issued identity documents became indispensable components to asserting identity, enabling mobility and ensuring national security. Jane Caplan and John Torpey contend that documents "of individual identity are essential if persons are to 'count' in a world increasingly distant from the face-to-face encounters characteristic of less complex societies" (6). In order to count as members of more 'developed' societies, individuals must possess identity documents that allow the state to legally acknowledge their existence while, simultaneously, enhancing the state's powers of surveillance. In

exchange, documented individuals are granted opportunities to participate in institutional and social programs (6), although certainly not without elements of racial and ethnic disparity.

By merging identity so inextricably to documentation, Kamal Sadiq argues that "[t]he increasing dependence of modern states on documentation is a major reason that illegal immigrants seek to acquire citizenship-indicating documents" (102). Building on these arguments, the fourth section also examines how the undocumented refugee has become abnormal in the eyes of the state, a "human monster" whose very existence violates the legal and natural order (Foucault, *Abnormal* 56). With this view, undocumented refugees are forced into a network and informal system of what I refer to as 'carceral xenophobia,' where undocumented refugees are no longer merely classified by the state as foreign or strange because of their race, religion or ethnicity. With carceral xenophobia, their foreignness or strangeness is compounded by a significantly different iteration of xenophobia that emerges from their rather unconventional existence as bodies without papers. This form of undocumented existence creates a different dilemma for the state, as the problems these bodies pose cannot be resolved by offloading them through orders of departure, exclusion or deportation. Since their undocumented statuses hinder or prevent their physical removal from the state, their undecipherable bodies are detained instead of being released, treating this more extreme form of xenophobia as one whose short and long-term fix rests in the confinement and segregation of undocumented bodies from the rest of the documented public.

In the fifth and final section of this chapter, I turn to the profound carceral effects that detention has on detainees long after their release, particularly for detainees who are detained for no other reason besides being undocumented. These undocumented detainees have become the main source of extremely lengthy detentions in Canada, as their undocumented statuses delay or render their removal impossible (Gros and van Groll 14). While some of these cases involve detainees with pre-existing mental health issues (13), others develop serious mental health conditions as a direct result of being detained. This section focuses on and supports the notion that both short and long-term detention on the basis of (un)documentation does not justify the prolonged mental health issues, which continue to affect detainees long after detention ends. Although it is generally understood that mental health issues which develop in detention continue to persist outside of detention, I argue that this causal relationship—exacerbated by the state's carceral technologies—should be viewed as an expected and intended consequence of Canada's newly-established alternatives to detention (ATD) program.

I take this up by introducing the term 'techno-carcerality' to theorize how we might think through the emerging and paradigmatic shift from architectural enclosures of confinement to more abstract and mobile notions of confinement. Moreover, I contend that the use of techno-carcerality in the context of immigration and detention, exerts and imposes physical, psychological, (geo)spatial and data-driven dimensions of control and confinement in public and private spaces, which are frequently veiled behind misguided notions of increased freedom and autonomy. While the ATD program may offer some

improved alternatives to the more conventional dynamics of existing carceral institutions, it is a program that involves pervasive surveillance techniques and carceral effects that have profound repercussions on everyday life

Historicizing Canada's Carceral Archipelago

Canada's desire to conceal its institutional and non-institutional forms of control and confinement date back to the residential school system. For example, the Canadian government disguised the carceral violence of the residential school system behind the religious ideology and architectural facades of the Anglican, Roman Catholic, Presbyterian and United churches ("The Residential"). More broadly, however, the government also concealed much of its carceral violence within the sweeping effects of Canada's liberalism. Smith reminds us that in the colonial theatre of Canada, notions of freedom, equality, mobility and autonomy were attainable insofar as they aligned themselves with Canada's accepted cultural formations (*Liberalism* 14). With the liberal individualism established by Canada's cultural hegemony and legislative systems, "[r]eal freedom, in the sense of the autonomy to choose economic, political, social, and cultural systems, was fundamentally denied to First Nations in Canada" (14). Within these liberal parameters, state-based individual rights and freedoms superseded any notions of Indigenous collective rights and freedoms (14).

The concept and logic of collectivism that remains so integral to Indigeneity, predating Canada's liberal individualism and, indeed, Canada's Confederacy and

formation as a state, was not only seen as "antithetical" but as something that "had to be contained if not eradicated" (14). The demarcation between collectivism and liberal individualism, or Indigenous ways of being versus those advocated by the state, marked another instantiation of everyday carcerality for Indigenous peoples. For instance, Indigenous beliefs in communal ownership were interpreted as "lacking the quality of selfishness" that was required for "individual participation in the marketplace" (15). As a result, Indigenous populations were deprived of the "individual autonomy that liberalism demanded before offering equality or freedom" (15). Since participating in Canada's liberal community also necessitated participation in the individualized marketplace, Indigenous peoples were deprived of the rights and freedoms entitled to white settlers and subjects of liberal individualism. The dichotomy between the logic of collectivism and that of liberal individualism created a vast system of spatial confinement for Indigenous peoples, denying them the "freedom of movement and the right to follow well established economic, political, and social practices" (14).

Robina Thomas and Jacquie Green argue that the extent of the carceral system and colonial violence experienced by Indigenous peoples was not restricted to a deprivation of liberal rights and freedoms. Rather, they included different manifestations of confinement and violence, including "biological and germ warfare; theft of cultures, knowledges, traditions, languages and identity; residential school policy, child welfare policies; and various treaty processes" (Thomas and Green 85). Like the residential school system, carceral violence in Canada consisted of a "complex and intricate web aimed at

destroying the mind, body, spirit, and humanity of [Indigenous] peoples" (84). With this understanding of confinement, which includes thinking of confinement as restricting the free movement of the mind or the body (84; Carnochan 381; Gill 20), the state showed how its expanding, non-institutional carceral apparatus was designed to subjugate and oppress Indigenous peoples without having to lock them up in structurally-defined, carceral spaces.[6] As Smith points out, no single group in Canadian history besides those who were classified as Indigenous peoples "had an entire government department dedicated to observing their actions and behaviour, and relieving them of their land and resources, while at the same time was charged with minimizing 'the risk of a rebellion'" (*Liberalism* 91).

Established in the 1870s, the Department of Indian Affairs (DIA) was directly linked to the British Imperial Indian Department and served as the department in charge of surveilling Indigenous peoples in western Canada (93). Through the DIA, state surveillance and carceral practices were enforced by employing the "Indian agent" who, "'more than anyone else…translated governmental policy and regulations which daily affected the lives of thousands of Indians'" (qtd. in Smith, *Liberalism* 104). The carceral

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[6] Indigenous peoples continue to be overrepresented in carceral institutions, specifically within provincial and federal correctional systems. According to a 2016-2017 report from Statistics Canada, while Indigenous adults represent only 4.1% of Canada's adult population, they "account[] for 28% of admissions to provincial/territorial correctional services and 27% for federal correctional services" ("Adult and Youth"). The statistics are even more disproportionate for Indigenous youth who make up 8% of Canada's youth population, while "account[ing] for 46% of admissions to correctional services in 2016/2017" ("Adult and Youth").

effects generated through the introduction and implementation of the pass system in 1885, sought to serve as a model for suppressing everyday Indigenous life (Baron 29). As Frank Laurie Baron argues, the pass system, "which, without any legislative basis, required Indians to remain on their reserves unless they had a pass, duly signed by the Indian agent…specifying the purpose and duration of their absence" (Baron 26), operated as a colonial mechanism of control and confinement (29, 30).

At the same time, the pass system was also used by the state as a promotional tool for European immigration, "reassuring prospective settlers of a peaceful and prosperous existence" in Canada (30). Under a pretence of peace and prosperity, an important parallel between the DIA and the CBSA emerges; effectively, both agencies set out to ensure the peaceful and prosperous existence of a white settler state. Similar to the DIA, the mandate of the CBSA, which materialized many years later and includes "providing integrated border services that support national security and public safety priorities" (Canada Border Services Agency), entails degrees of systemic violence and confinement that are aimed at some of the world's most marginalized people; namely, undocumented refugees.

Ebrahim Toure and the Punitive Nature of Immigration Detention

In Canada, there are three designated immigration detention centres (IHCs). Originally built as a Correctional Service Canada (CSC) facility in the mid-1950s, the Laval IHC in Quebec was adapted for use by the CBSA in 1996 and has a holding capacity of 109 detainees ("Immigration Holding"). The British Columbia IHC in Surrey

has a capacity of up to seventy detainees, including access to onsite IRB hearing rooms ("Immigration Holding"). The GTA IHC located in Toronto, Ontario, is Canada's largest detention centre with access to onsite IRB hearing rooms and a capacity of up to 183 detainees ("Immigration Holding"). Out of the total of 8,355 persons detained in Canada from 2017 to 2018, 6,609 were detained in IHCs ("Annual Detention"). The majority of the remaining 2,662 detainees were detained in provincial jails ("Annual Detention"), all of which are considered to be maximum-security facilities (Kennedy, "Hundreds").

As these government statistics indicate, Ontario is a hotbed for immigration detention. Of the 8,355 people detained across Canada from 2017 to 2018, Ontario led the way with approximately forty-eight per cent of immigration detentions, followed by British Columbia with about twenty-six per cent and Quebec with approximately twenty-one per cent ("Annual Detention"). These numbers certainly correlate with patterns of immigration and population density; however, they also correlate with the length of detention served by detainees. Canada's central region has consistently led the way in detaining refugees for the longest periods of time, including those detained for periods of six months, twelve months and periods that exceeded twelve months ("Detention Reviews").

From 2013-2018, Canada has steadily decreased the length of detention for detainees, but still remains one of the few common law countries in the world to not legally impose maximum lengths on detention ("Canada Immigration"). Its policy of indefinite detention has resulted in "several cases of extraordinarily lengthy

detentions" ("Canada Immigration") and the onset of numerous mental health issues for its immigration detainees. As Janet Cleveland and Cécile Rousseau observe in their study of detained and non-detained adult asylum seekers in Montreal and Toronto IHCs, the unpredictability of indefinite detention contributed to an increase of mental health issues such as post-traumatic stress, depression and anxiety for detainees who were detained for multiple months or even years (413). Perhaps less expectedly, however, was the noted increase of mental health issues for immigration detainees who were detained for as little as thirty days (413). Equally important to consider is that the onset of these and other mental health issues do not always dissipate once detainees are released or deported. Although immigration detention is considered by the state as a temporary process that facilitates deportation or resettlement, the detention of many detainees, including adults, families and children, functions as an unnecessary punitive process that leads to long-term psychological effects and traumas, which persist well beyond the institutions in which they manifest.

Just prior to Toure's release in 2018, the CBSA finally acknowledged that the likelihood of obtaining a travel document for Toure's removal within a reasonable amount of time was no longer probable (Kennedy, "Immigration Detainee"). In a release plan that was jointly submitted by the CBSA and Toure's lawyers, the CBSA also acknowledged that their previous concerns of Toure posing a flight risk were no longer valid. In the end, the CBSA and the IRB conceded to what Toure and his lawyers had argued from the very beginning: why keep him detained when he could not be deported? As Toure's lawyer

Jared Will concludes, ‘“[t]he reason he has been released is because the [IRB] finally acknowledged there is no prospect of deporting him…But it’s clear that there has never really been a prospect of deporting him’” (qtd. in Kennedy, “Immigration Detainee”).

After spending just over five and a half years in immigration detention, while accumulating a total of sixty-nine detention review hearings before the IRB, Toure was released in September 2018 (Kennedy, “Immigration Detainee”). With a garbage bag full of his belongings in hand, he emerged from the GTA IHC after three of his sureties, “all of whom had been previously rejected by the [IRB] tribunal or opposed by the CBSA,” were finally accepted by combining a total of 26,000 dollars “in cash and performance bonds” (Kennedy, “Immigration Detainee”). As is commonly the case with many immigration detainees, Toure is required to abide by a series of release conditions that include living with one of his sureties; reporting to the CBSA every two weeks; making monthly calls to the Gambian Embassy in Washington, DC, as part of an ongoing effort to obtain a travel document that would allow for the initiation of his removal proceedings; and abiding by any orders put forth by the CBSA at any time (Kennedy, “Immigration Detainee”).

From the outset of his detention, Toure repeatedly and voluntarily expressed a desire to leave Canada. As someone with purported citizenship claims to both The Gambia and Guinea, but with no valid identity documents to substantiate either claim, neither The Gambia nor Guinea expressed any willingness to take him back (Kennedy, “Caged”). Despite his desire to leave Canada, Toure was left in a serious predicament as

the CBSA could not initiate a removal order without any state-issued identity documents. More importantly, however, the CBSA was under no legal obligation to keep Toure detained simply because they could not secure his removal. Adding to this discretionary element of immigration detention is the notion that indefinite detention is not meant to be punitive, particularly because of the state's inability to procure identity documents for the removal of undocumented individuals. Yet, as we saw with Toure, his lengthy detention was largely the product and punitive consequence of not possessing—or not having the capacity to acquire—state-issued identity documents that would have otherwise led to his removal from Canada.

As a child, Toure and his mother moved to Guinea, her place of birth, soon after the death of Toure's father in The Gambia, where Toure had been raised for most of his life on a small-scale farm (Kennedy, "Caged"). For Toure and many other refugees, Canada and the US have traditionally represented beacons of hope, destination countries to which people have historically fled to in times of crises and in hopes of building better lives for themselves and their families. Undocumented migration, known more formally as irregular migration and defined by the International Organization for Migration as "movement that takes place outside the regulatory norms of the sending, transit and receiving countries," also involves the "entry, stay or work in a [destination] country without the necessary authorization or documents required under immigration regulations" ("Key Migration"). Some refugees who find themselves in precarious situations of irregular migration turn to false identity documents as a way of facilitating

and mollifying the irregularity of their movement, as was the case with Toure. Unable to acquire a travel visa to Canada or the US, and driven by the opportunity to earn money and escape the life he had, Toure purchased his cousin's passport for six thousand euros and used it to travel to the US in 2002 (Kennedy, "Caged").

He made his way to Atlanta, Georgia, as an undocumented worker, where he found work at a clothing store and was paid under the table in cash (Kennedy, "Caged"). In 2004, Toure was arrested in Atlanta "for selling pirated CDs and DVDs" (Kennedy, "Caged"). Although he plead guilty and received two-years probation for this crime, Toure maintains that he was innocent and only agreed to the charge because the judge instructed him that a guilty plea would not result in any jail time (Kennedy, "Caged"). Later that same year, Toure was also "charged with 'reckless conduct' for leaving his friend's children alone in a house when he was supposed to be babysitting…[and] was released on a $1,000 bond" (Kennedy, "Caged"). He had one last run-in with police the following year in 2005, after being stopped by authorities in an airport in Houston, Texas, with almost 50,000 dollars in cash (Kennedy, "Caged"). Toure claims that "he was paid $1,000 to transport the cash to Arizona by a man who bought cars in the U.S. and sold them in West Africa" (Kennedy, "Caged"). After co-operating with police, he was released without being criminally charged.

Following this incident, Toure returned to Guinea where his uncle had recently been murdered (Kennedy, "Caged"). He was convinced that his uncle's murder was the result of a robbery gone wrong by a local gang and began fearing for his own life

(Kennedy, "Caged"). In 2011, he fled Guinea one last time with the aid of his cousin's passport under the name of Omar Toure, making his way to Montreal. He quickly ended up in Toronto where he applied for refugee status under his real name, admitting to Canadian immigration officials that he had fraudulently used his cousin's passport to gain entry into Canada (Kennedy, "Caged"). With his refugee claim underway, Toure received a legitimate work permit under his own name and was hired by a private recycling company to collect and sort garbage for eleven dollars an hour (Kennedy, "Caged"). Toure's refugee claim was ultimately denied by the IRB, as were his subsequent appeals, and the removal appointment that Toure claims to have never received was issued by mail, serving as the precursor for his eventual arrest and detention (Kennedy, "Caged").

While Toure was not charged with or convicted of any crimes in Canada, nor was he deemed a danger to the public, the CBSA classified him as a "high-risk" detainee based on his 2004 conviction for selling pirated DVDs in Atlanta (Kennedy, "Immigration Detainee"). He was sent to the CECC, a facility that is "home to more immigration detainees than any other facility in Canada," equipped with its own dedicated immigration wing (Kennedy, "Caged"). As a correctional facility, the CECC has "received more inmate complaints than any other in the province, ranging from lack of medical care to the number of lockdowns" (Kennedy, "Caged"). Unfortunately for Toure and many other refugees in Canada, the practice of locking up detainees in maximum-security jails is rather common. According to Brendan Kennedy of the *Toronto Star*, "more than two-thirds of immigration detainees, including almost all of the long-term

detainees, were [incarcerated] in maximum-security jails" (Kennedy, "Caged"). Not only is there no legislation in place to formally outline where immigration detainees will be detained—whether that occurs at a maximum-security facility or in one of Canada's three medium-security IHCs—detainees have no meaningful recourse to appeal the decisions made regarding their placements. Some previous criminal convictions are likely to land immigration detainees in maximum-security jails, as are any existing physical or mental health conditions, including those that develop over the course of detention (Kennedy, "Caged"). According to the Canadian government, these processes are in place to allow detainees to receive better medical treatment, which they believe is available to correctional inmates incarcerated in provincial or maximum-security jails.

However, critics maintain that provincial jails are not appropriate healthcare facilities. They claim that the movement of "vulnerable detainees to a demonstrably more restrictive and violent environment will only exacerbate their health concerns" (Kennedy, "Caged").[7] In Toure's case, a psychiatrist testified that his mental health drastically deteriorated over the course of his detention at the CECC, resulting in hallucinations (Kennedy, "Immigration Detainee") and suicidal ideation (Kennedy, "Caged"). Toure was prescribed medication by a doctor at the CECC that he continues to take daily (Kennedy, "Caged"). But many other immigration detainees with mental health conditions in IHCs

[7] Vulnerable persons are defined under the NIDF as "pregnant women and nursing mothers; minors (under 18 years of age); persons suffering from a severe medical condition or disability; persons suffering from restricted mobility; persons with suspected or known mental illness and victims of human trafficking" ("Arrest").

refuse to seek medical treatment. As Hanna Gros and Paloma van Groll point out, one of the main reasons they avoid doing so is out of fear of being transferred to a maximum-security, provincial correctional facility (29). For detainees already incarcerated in provincial jails, many refuse to seek mental health support from medical staff to avoid being sent to solitary confinement (26).

Canada's Statutory Framework for Immigration Detention

The legislative framework that governs Canada's system of immigration detention and release is found in the IRPA. Beginning in section 55, subsection 1, the IRPA outlines how a foreign national or permanent resident may be arrested and detained with a warrant:

> An officer may issue a warrant for the arrest and detention of a permanent resident or a foreign national who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, for an admissibility hearing, for removal from Canada or at a proceeding that could lead to the making of a removal order by the Minister under subsection 44(2). (48-49)

Section 55, subsection 2(a), also allows a CBSA officer to arrest and detain a foreign national without a warrant for the same reasons detailed above. In addition to subsection 1, however, subsection 2(b) permits an officer to arrest and detain a foreign national "if the officer is not satisfied of the[ir] identity" (49). As CBSA officers are given the

discretionary power of determining reasonable grounds for arrest and detention, especially as they apply to foreign nationals, it is imperative to bear in mind that reasonable grounds, in such cases, are not held to the same legal standard that reasonable grounds are subject to in the Criminal Code of Canada.

Since immigration detention falls under what is considered administrative law rather than criminal law, immigration detainees are processed through what Petra Molnar and Stephanie J. Silverman refer to as "a shadow penal system" ("Migrants"), which allows the state to lock up migrants or refugees without charging or convicting them of any crimes under the Criminal Code. As the ID is not bound by any legal or technical evidentiary rules, and can base its decisions on evidence that may or may not be legally binding (Gros and van Groll 54), the margin for error that can occur with the ID's decision-making processes of detention reviews is exponentially increased.

Section 54 of the IRPA describes the ID as "the competent Division of the Board with respect to the review of reasons for detention" (48). As an independent, quasi-judicial tribunal, the Immigration and Refugee Board (IRB) and its ID "report to Parliament through the Minister of Citizenship and Immigration," but remain independent from both the Minister and the Department of Immigration, Refugees and Citizenship Canada ("About the Board"). Guided by the legislative framework set out in the IRPA, the ID has been repeatedly criticized for its lack of government and judicial oversight. Gros and van Groll point out that immigration detainees have "no right of appeal to the Immigration Appeal Division for detention decisions" (72). While they may seek judicial

reviews of decisions made by the ID to detain at the Federal Court level, detainees must first request permission to obtain leave from the Federal Court, a process that can delay judicial reviews by up to one year (72).

In cases where the Federal Court grants what is called "an expedited process," the delay period can be reduced from one year to anywhere between three to six months (72). Either way, the protracted judicial review process is highly flawed and a difficult one for immigration detainees to undertake (72), requiring detainees who are often and already unrepresented or underrepresented by legal counsel to legally challenge decisions reached by the ID in Federal Court (Kennedy, "Caged"; Keung, "Audit"). On the rare occasion that a detainee is successful in their judicial review appeal, the Federal Court does not possess the legal authority to overturn the decision reached by the ID, nor do they have the authority to order the release of a detainee (Gros and van Groll 98). The Federal Court's authority over the ID extends insomuch as they can order the ID to simply undertake another detention review (98).

Details of detention, review and release are further outlined by section 57, subsection 1 of the IRPA, which states that, "[w]ithin 48 hours after a permanent resident or a foreign national is taken into detention, or without delay afterward, the [ID] must review the reasons for the continued detention" (50). Further reviews of immigration detention are described in section 57, subsection 2, where "[a]t least once during the seven days following the review under subsection (1), and at least once during each 30-day period following each previous review, the [ID] must review the reasons for the

continued detention" (51). Under section 58, subsections 1(a) through (e), the ID is required to order the release of a foreign national or permanent resident unless they fall into one of the following categories: they are deemed to be a danger to the public; they are suspected of being unlikely to appear for a proceeding related to admissibility or removal; there is reasonable suspicion to conclude inadmissibility on grounds of security, violating human or international rights, criminality, serious criminality or organized criminality; or the identity of the foreign national has yet to be satisfactorily established (51-52).

While the statutory framework in place offers the ID a set of rules and guidelines to abide by in their decision-making, the process of legally challenging one's detention remains significantly problematic. From 2016 to 2017, "87% of individuals held in immigration detention were released within 90 days" ("Report"). But as I have already noted, in order to begin a process of judicial overview that can challenge the ID's decision to detain in the first place, detainees are required to wait anywhere between three to twelve months. With the vast majority of detainees released within the first three months of detention, their right to appeal the ID's decision at the Federal Court within a reasonable time is effectively nullified. Contributing to the lack of oversight and timely appeals process in place for detainees is the increased likelihood of developing mental health issues within the first three months of detention. The lack of timely recourse available to immigration detainees to appeal decisions reached by the ID, results in

unnecessary lengthy detentions that can also have significant ramifications on their long-term, mental health.

The Adjudicative Culture of Canada's Immigration Detention System

In September 2017, Mario Dion, the former chair of the IRB, commissioned the first-ever independent and external audit of the ID in response to previous decisions reached by the Federal Court, the Federal Court of Appeal, the Alberta and Ontario Courts of Appeal, and the Ontario Superior Court of Justice. The audit was commissioned "to assess hearings and decisions in randomly selected cases where immigration detention exceeded a minimum of 100 days, in order to determine the prevalence of issues relating to the fairness of the process, and its compliance with the *Charter of Rights and Freedoms*" ("Report").[8] In summarizing the findings of the "Report of the 2017/2018 External Audit," immigration reporter Nicholas Keung writes that the report "reveals a system that unfairly keeps people behind bars for months on end due to ill-informed adjudicators and a culture that favours incarceration" ("Audit"). The findings reiterate

[8] Conducted over a period of seven months by a single auditor, assisted by an individual who reviewed French-language hearings, the audit examined "312 hearings from 20 different files for 18 individuals," of which fourteen individuals were removed from Canada and the remaining four were eventually released ("Report"). The hearings and decisions were randomly selected and focused on whether they "met standards of fairness as articulated by the courts, and the related question of whether or not the decisions fairly reflected the evidence and submissions of the parties" ("Report"). The audit did not review the specific conduct or qualifications of individual ID members or adjudicators, but, instead, "reviewed the fairness of the adjudicative practices and outcomes" ("Report").

what the Federal Court had already observed about the extraordinary power wielded by ID members in detaining individuals not guilty of any criminal offences; namely, detention is a power ordinarily reserved and exercised by the criminal courts and is subject to fixed incarceration periods ("Report").

Moreover, this extraordinary power in the criminal justice system is invariably exercised by those with years of legal experience. As the report points out, "[t]he power to grant or deny liberty is, in our society, primarily held by provincial or federally appointed judges, who are almost exclusively lawyers with many years of experience in the practice of law" ("Report"). In federal or provincial tribunals who are granted the power to detain, the decision-makers are usually appointed by the Cabinet for fixed periods of time and includes lawyers, former judges and legal experts that typically sit on panels comprised of two to five individuals ("Report"). But unlike many of these types of tribunals, the ID is unique in that its power to detain is exercised by "civil servants who are in permanent staff positions and sit as single adjudicators" ("Report"). As the auditor demonstrates, although "non-lawyers can be excellent tribunal adjudicators, it is certainly useful to have Members with legal training and broad justice-sector experience, including administrative law" ("Report"). Consequently, one of the recommendations made in the report, given the Federal Court's judicial scrutiny of the ID's "'maladministration' of the legislation," is that it should consider recruiting and retaining more lawyers for its tribunal ("Report"). Specifically, the auditor recommends that the ID recruits more

"lawyers with a background in representing immigrants in legal proceedings before the IRB" ("Report").

This is a particularly pressing issue for the IRB since many of the ID's current members consist of individuals who have been previously employed by the CBSA ("Report"). Although the IRB has dedicated significant resources to the legal training of adjudicating members, the auditor's report also makes note of an apparent "gap between what is taught at training conferences and what is practiced on the ground" ("Report"). The auditor suggests that the adjudicative culture of the ID, which is largely based on individual decision-making processes rather than collective ones, reaches decisions that are unfair, inconsistent and prone to error. The ID's approach stands in contrast to that "of many Canadian tribunals that have increasingly adopted a collaborative internal culture that expects decision-makers to work together in developing the best adjudicative practices" ("Report"). As the report emphasizes, "[a] more collaborative adjudicative culture can be expected to produce better decisions with fewer errors and inconsistencies" ("Report").

One of the most glaring inconsistencies identified in the report by the auditor is the sheer number of Canadian Charter of Rights and Freedoms-based complaints and cases, which have been brought before the courts against the ID. In view of legal

precedent such as that of Sahin v. Canada in 1995,[9] the Federal Court ruled that ID adjudicators "must have regard to whether continued detention accords with the principles of fundamental justice under section 7 of the Charter" (Sahin v. Canada).[10] This precedent introduced what came to be known as the Sahin factors,[11] considerations that an ID member must take into account prior to making decisions to either continue detention or to order release ("Chairperson Guideline 2"). The report reveals that ID adjudicators are not only inconsistent in the ways they administer their detention review hearings, but that they also violate the Charter rights of immigration detainees by arbitrarily and erroneously ordering continued detention ("Report"). In the files reviewed in the report, the auditor discovered that the "ID, failed, over months and years, to undertake a fresh and independent assessment of the facts, relying instead on past decisions, and allowing

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[9] In Sahin v. Canada, Bektas Sahin, a Turkish citizen, was detained upon arrival in Canada in 1993. He was issued a conditional departure order since he did not possess any identity documents, but applied for refugee status which was granted to him. As a refugee, Sahin was entitled to the protections offered under section 7 of the Charter. The Federal Court ruled that while the adjudicator complied with the statutory mandate of the Immigration Act, they "did not take into account the considerations required by section 7 of the Charter. The failure to do so constituted an error of law" (Sahin v. Canada). Yet, because the Federal Court cannot order the release of an immigration detainee, it ordered that Sahin's continued detention be re-evaluated by an adjudicator.

[10] Section 7 of the Canadian Charter of Rights and Freedoms states that, "[e]veryone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (Canadian Charter).

[11] While not exhaustive of all the factors an ID member must consider, the Sahin factors include: the reason for detention; the length of time in detention; elements that can assist in determining how long detention is likely to continue; any unexplained delays that may prolong the length of detention; and the existence detention alternatives ("Chairperson Guideline 2").

[the] CBSA to rely on past submissions" ("Report"). This, in particular, provides clear evidence of institutional complacency and an adjudicative culture in which the ID has repeatedly failed to invest the necessary rigour that is required when dealing with such extraordinary powers.

As the report conveys, and as the Ontario Court of Appeal has noted, the ID's complacency is perhaps most evident in their over-reliance on previous review decisions. While ID members have the authority to either reverse or depart from existing review decisions, they very rarely exercise that authority, especially with individuals who have been detained for periods longer than four months ("Report"). In fact, "it was not surprising that in almost all decisions, the Member[s] expressly declined to come to a different result than past decisions" ("Report"). There were certainly a few instances in which departing from previous decisions did not make sense with detainees who remained legitimate dangers or threats to public safety ("Report"). However, there were many instances in which the passage of time made ID adjudicators rely "on a recital of facts from months previously, or state that there was no need to repeat facts cited in previous decisions" ("Report"). Some members even relied on their own previous decisions that were made years earlier, involving the same case but without taking into consideration any new evidence or arguments submitted on behalf of the detainee ("Report").

In yet another of the auditor's many recommendations to the ID, the report references the 2017 case of Toure v. Minister of Public Safety. Here, the court found that

"Toure's detention without treatment constituted, in the circumstances of that case, cruel and unusual punishment contrary to s.12 of the *Charter*" ("Report").[12] In the case brought against the Minister of Public Safety, Toure claimed that his detention at the CECC for four and a half years constituted cruel and unusual punishment and, thus, a violation of section 12 of the Canadian Charter of Rights and Freedoms (Ebrahim Toure v. Minister). In terms of violating section 12 of the Charter, what made Toure's case even stronger was that one and a half of those years in the CECC were spent in lockdown, part of a procedure that suspends or limits access to visitations, phones, showers, the day room and the yard (Ebrahim Toure v. Minister).

Whereas individual ID adjudicators decide on detention, continued detention or release, members of the CBSA, following the guidelines of the NRAD, are responsible for the placement of an individual in any given detention facility, including IHCs and provincial jails. Using a NRAD score to calculate "the total sum of points attributed to the

[12] Section 12 of the Canadian Charter of Rights and Freedoms states, "[e]veryone has the right not to be subjected to any cruel and unusual treatment or punishment" (Canadian Charter).

risk and vulnerability factors,"[13] a single CBSA officer has the power to determine whether an individual should be detained at an IHC or at a provincial correctional facility ("Enforcement 20" 35). Individuals who receive scores of zero to four points are sent to available IHCs; those with scores between five to nine points can be taken to IHCs or provincial correctional facilities; and those with ten points or more are immediately sent to provincial correctional facilities (35).

According to the government's Enforcement Manual, the stated purpose of the NRAD "is to ensure national consistency regarding detention placement, in a transparent and objective way" (34). Yet as we have seen with Toure and others, this is not always the case. By missing a removal appointment, Toure was arrested and detained for over five and a half years with no other risk or vulnerability factors except the 2004 conviction for selling pirated CDs and DVDs, which did not result in any jail time. Based on this

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[13] As outlined by "Enforcement 20: Detention" document, there are seven vulnerability factors that are used to calculate a detainee's score. They are described as follows: risk factor one and two allocate points on the possibility that a detainee is inadmissible on grounds of security or organized criminality (34); risk factor three allocates points for the number of years that have passed since one's last known guilty offence or conviction for criminality (34); risk factors four and five allow a CBSA officer to include the last known committed offence in the calculation of a NRAD score, even if the individual has not been convicted (34); risk factor six allocates points if a detainee was involved, over the last two years, "in a serious incident during the arrest or was involved in a major breach of [a] detention facility," including acts or attempts to incite violence aimed at others (35); risk factor seven allocates points if a detainee has either escaped or attempted to escape from a detention facility or from legal custody (35); risk factor eight allocates points if a detainee is a wanted person, but does not include immigration-related warrants (35); and risk factor nine "reduces points if a detainee is a vulnerable person" (35), defined as pregnant or nursing mothers; minors; individuals with severe medical conditions or disabilities; individuals with restricted mobility; individuals with suspected or known mental illnesses; and victims of human trafficking (24).

conviction, the CBSA officer in charge of calculating Toure's NRAD score determined that he was a "'high-risk' due to 'criminality' in the U.S." (Kennedy, "Canada's Immigration"). As part of the *Toronto Star's* extended investigation into Canada's immigration and detention system, Kennedy notes that, "Toure's risk assessment appears to contradict border services' own policy, which defines a 'high risk' detainee as one with 'serious criminality,' a record of violent behaviour or someone who poses a 'significant' escape risk, among other factors" (Kennedy, "Canada's Immigration"). Kennedy suggests that, in accordance with the available evidence, Toure's initial assessment should have designated him as a "'medium-risk' detainee…defined in border services' policies as one with 'minor criminality,'" or crimes that are not violent in nature (Kennedy, "Canada's Immigration"). As such, Toure should have been detained at the GTA IHC right from the start (Kennedy, "Canada's Immigration").

The problem with the NRAD form runs much deeper than Toure's misplacement. Since IHCs are only available in Laval, Surrey and Toronto, immigration detainees outside of these cities can be sent directly to provincial correctional facilities, despite the designation scores on their NRAD forms. In other words, whether a detainee is designated as "low-risk," "medium-risk" or "high-risk," the place of their detention is ultimately subject to regional, geographic or spatial availability. This may also hold true in cases of detention in cities with designated IHCs, since each IHC is limited in capacity. While CBSA officers are instructed to abide by the risk and vulnerability factors on the NRAD form as a means of placing immigration detainees, Federal Court documents show

that CBSA officers have "left vital records blank and said they lack the expertise to assess the risks posed by immigration detainees" (Kennedy, "Canada's Immigration"). The NRAD process reveals "a pattern of shoddy, inaccurate form completion by border services officers," due, to some extent, to the NRAD training program which has consisted "primarily of two staff bulletins" (Kennedy, "Canada's Immigration"). As one anonymous CBSA officer notes, "'I am not a medical or mental health professional…I have not received any training on the completion of the form. This assessment is cursory in nature and should not be construed as an accurate representation of the subject's risk or mental health status'" (qtd. in Kennedy, "Canada's Immigration").

Intervening prior to the initial NRAD is crucial in preventing inaccurate designations and placements in subsequent risk assessments. Regardless of where immigration detainees are initially placed, ensuing risk assessments must be completed "within 60 days from the date of the initial risk assessment if the detention continues, or sooner if the circumstances change or a change in risk is observed" ("Enforcement 20" 36). In these assessments, information must be provided to "corroborate the status quo or the change in the facility type for detention" (36). In cases where detainees are held at IHCs, officers working within each IHC facility are required to complete the NRAD form (36). For those who are detained at provincial correctional facilities, the assessment form is completed by "a detainee liaison officer or an officer designated to perform this function" (36). With the poor and inaccurate completion of NRAD forms already demonstrated by federally-trained CBSA officers, what quality of risk assessments might

we expect from the private security guards employed at the GTA IHC, a sub-contracted security firm in charge of the security of detainees (Mahichi)?[14] Similarly, what kind of assessments might we expect from correctional officers tasked with the responsibility of detainee security at provincial correctional facilities? If trained CBSA officers have been criticized for their negligent or misinformed (in)completion of NRAD forms, can we reasonably expect otherwise from those who are employed by a privately-contracted security firm or those employed by provincial correctional services?

The Undocumented Monster and the Emergence of Carceral Xenophobia

Without any state-issued identity documents to corroborate Toure's claims to citizenship in The Gambia and Guinea, Toure was rendered stateless. With neither The Gambia nor Guinea willing to claim him as a citizen of their own—and with Canada refusing to grant him any legal status—Toure remained indefinitely detained. Instead of allowing him to re-integrate into the community with, perhaps, similar release conditions to those that were imposed on him after his release, Toure's detention continued on the basis of a pending, future interview between himself and Gambian officials (Kennedy, "Immigration Detainee"). Since no such interview materialized over the course of Toure's detention, nor were any state-issued identity documents produced, his detention at the

[14] After the death of Mexican national Lucia Vega Jimenez at Vancouver's IHC, in which a contracted security guard admitted to "falsif[ying] room check records the morning of Jimenez's death, before finding her hanging in a shower stall later that day," the CBSA granted private security firm Securiguard a new contract until mid-2020 (Mahichi).

CCEC at the behest of the CBSA amounted to confinement by way of a lack of documentation.

The notion of missing or non-existent identity documents is certainly not unique to Toure's case. In fact, it is somewhat of a common occurrence for people from Sub-Saharan Africa and now, to a lesser extent, people from South Asia.[15] As Sadiq observes, these two regions "represent some of the largest populations and lowest registration rates for their child populations" (78). Despite the importance that birth registration documents have in the process of acquiring other forms of state-issued identity documents, there are millions of births each year across the globe that are not registered (78). Whereas birth registration rates in regions that are considered more 'developed' range in the ninety-eighth percentile, the birth registration rates in 'developing' regions, such as Sub-Sahara Africa and South Asia, are significantly lower (78). In Sub-Saharan Africa, approximately seventy per cent of births are not registered annually, followed by sixty-three per cent of unregistered annual births in South Asia (78).

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[15] With the introduction of India's Aadhaar system in 2009, a unique twelve-digit, verifiable identification number issued by the Unique Identification Authority of India—and linked to biometric and other data—the numbers of unregistered or undocumented births have declined. Nonetheless, access to Aadhaar for more rural populations remains problematic and has been linked to a growing number of problems and deaths. Unreadable fingerprint scans, Internet connectivity and the distance of ration shops from rural communities, have all contributed to a system that is flawed and "riddled with technological glitches" (Ratcliffe). As a result of these issues and others, access to food has proven to be more difficult for some Indian citizens, and has been linked by activists to cases of starvation deaths (Ratcliffe).

Unlike parts of the world where identity documents play vital roles in the day-to-day lives of people, identity documents do not play significant roles in the everyday lives of people "in [some] developing countries [that] are predominantly rural, characterized by a lack of social and geographic mobility, and proof of membership" (72). In Canada, where state-issued identity documents are integral to one's identity and mobility, or what Sadiq calls "citizenship from above" (102), identity documents provide the state with ways of surveilling those within and outside its borders. As Sadiq writes, "[g]overnments want their populations to remain within their boundaries and to move to other territorial states only with their permissions. They seek to protect their borders from any unauthorized entry by peoples belonging to other states" (108). However, these ways of seeing and knowing from above are fused to legal and bureaucratic modes of understanding identity, which simply do not exist or compute in many of the world's rural or developing regions.

Citizenship from above works to invoke a sense of fear and insecurity of undocumented bodies—bodies that are often undocumented since birth. Sadiq employs the term "blurred membership" (72) or "citizenship from below" (73), to describe the long-time existence of "resident members of a polity, citizens by birth who are unrecognized by agents of the state because of their lack of official standardized documentation" (72). Through no fault of their own, these citizens and particularly those living in poor, rural regions, spend most of their lives with little attention and support from the state (73). Their existence as citizens in their countries of origin is predicated not

on state-issued identity documents that necessarily allow them to exercise any civil or political rights, but on "[a] historical claim to belonging," where individuals and groups from within one's own community often "vouch for the individual's membership claim" (75).

As Toure experienced, this form of existence becomes extremely precarious when undocumented citizens exercise their territorial and extraterritorial rights to mobility.[16] Sadiq asserts that "the increasing dislocation of traditional rural life, migration to urban areas, and state encroachment into rural regions through development schemes," makes state-issued identity documents essential because the informal recognition processes of identity and belonging are no longer effective (72). On a global scale and in multicultural or multiethnic states such as Canada, the need to rely on an infrastructure of documentary citizenship is considered even more important, since it is impossible to determine who is or who is not a documented and, therefore, legitimate citizen (108). Inconspicuous, indiscernible and illegible statuses of undocumented bodies like Toure's are particularly susceptible to the systemic violence of immigration policies and detention networks in their respective destination countries. When abroad, undocumented bodies are separated from the rural and local communities in their countries of origin that can informally

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[16] Adopted in 1948, the thirty articles that make up the Universal Declaration of Human Rights (UDHR) outline fundamental human rights that are intended to be universally protected. In particular, article thirteen lays out the right to freedom of movement granted to all individuals, including the right to leave any country and the right to return to one's own country. No article in the UDHR makes the right to freedom of movement contingent on identity documents.

corroborate claims of blurred, social and cultural membership. Deprived of both formal and informal modes of validating citizenship, belonging and identity, undocumented bodies abroad become even less visible and protected than they were before.

While many refugees are met with reservation and speculation in destination countries by governments and civilian populations alike, undocumented refugees appear to pose an existential crisis to both. With no viable way of tracing who they are or where they come from, undocumented refugees appear at the doorsteps of the state seemingly out of nowhere. In Canada, undocumented refugees are often detained because their legal citizenship and identities are called into question. However, the citizenship and identities of undocumented refugees seem to matter insomuch as they can be deported. Except citizenship and identities cannot always be confirmed in ways that satisfy the state; which is to say, through avenues that formally and legally recognize citizenship and identity using state-issued identity documents. For the state, the arrival of undocumented bodies represents a double departure from accepted norms. On one hand, the presence of undocumented bodies defies the standard legal conventions, bureaucratic and technological infrastructures that are associated with transnational mobility in the West, particularly following 9/11. On the other hand, the very existence of undocumented bodies contravenes the 'normalcy' with which human life has come to be recognized and verified through documentation.

While these documents write people into existence, Caplan and Torpey suggest that people also have the agency to "'write' themselves into life and history" by creating

and using identity documents in different ways (6). For undocumented bodies who have never been legally written into existence either by the state, by others or even themselves, they exist without existing. In other words, they exist as physical bodies without existing as documented bodies, legal citizens or identities. It is in this way—in this schism between the corporeal nature of the body and the more abstract nature of identity—that their existence is not only viewed as paradoxical but also as abnormal.

One of the domains of abnormality that came together for Foucault in the nineteenth century was the figure of what he called the "'human monster'" (*Abnormal* 55). I draw upon Foucault's concepts of abnormality and human monstrosity to suggest that the undocumented refugee embodies the abnormality of this human monster. As Foucault writes, "what defines the monster is the fact that its existence and form is not only a violation of the laws of society but also a violation of the laws of nature" (55-56). The appearance of the undocumented refugee within the state's "'juridico-biological' domain" (56), represents a transgression of the law and of what we might refer to as the 'natural' order of things. Without state-issued identity documents to authorize the undocumented refugee's legal citizenship status and identity, governments in destination countries can easily frame the narrative of the undocumented refugee around their perceived legal transgressions. However, the more implicit framing of the state's undocumented narrative has more to do with the undocumented refugee's transgression of the natural order of things. That is to say, the existence of the undocumented refugee as an individual without any documented proof of existence beyond their physical body,

disregards both the legal and natural ways with which knowing and understanding existence in the West has come to be acknowledged and defined. In this sense, the undocumented refugee, like Foucault's human monster, violates the law by their unnatural, irregular or abnormal existence.

If we consider the undocumented refugee as an undocumented monster, its abnormality is partly the result of the state's inability or refusal to understand how it came into existence. As such, we can begin to see the beginning stages of what I earlier referred to as carceral xenophobia. Without identity documents or any other means of legitimizing existence beyond the physical body, the strange and dangerous undocumented monster is locked away until the state can figure out what to do with it. The perceived abnormality of the undocumented monster is met with an equally abnormal way of confining it, a form of confinement in Canada that operates both inside and outside international laws, conventions and guidelines pertinent to detention.[17] Along with serving as a way of documenting and identifying individuals, identity documents provide the state with a way

[17] In the "Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention" issued by the UNHCR in 2012, states are advised to abide by a series of ten detention guidelines, some of which include: detention cannot be arbitrary; as indefinite detention is arbitrary, "maximum limits on detention should be established in law"; decisions to detain or continue detention "must be subject to minimum procedural safeguards"; the "[c]onditions of detention must be humane and dignified"; and "[d]etention should be subject to independent monitoring and inspection" (11).

of keeping track of all its (non-)citizens, including those it has historically considered as abnormal.[18]

Carceral xenophobia provides us with a framework for understanding how the state uses a system of incarceration or detention to confine those it considers abnormal and illegible. In addition to viewing detention as part of a punitive process that facilitates resettlement or removal, it is also a process that seeks to make undocumented bodies legible, knowable and, in some cases, expendable. It begins a bureaucratic process that identifies undocumented individuals not by who they are but by how the state defines who they are. This process becomes even more controversial when we consider how abnormality has long been linked to notions of criminality, race and racism. As Foucault has shown, there is a long history of identifying abnormal individuals as criminals, villains, monsters and madmen (*Discipline* 101). By virtue of their transgressions of the law or, seemingly, their transgressions of the natural or biological order, these abnormal individuals are designated as enemies to all and as "wild fragment[s] of nature" (101). When this notion of abnormality is extended to include notions of race and racism—as is the case with Foucault's system of biopower—tracing or tracking abnormal individuals is viewed as an essential part of mitigating or eliminating the threat they are seen to pose. Since the very existence of these individuals or those "of the bad race, [or] of the inferior race" (*Society* 255) is enough to constitute degrees of abnormality, biopower, which is so

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[18] This also applies to the perception and treatment of documenting Indigenous peoples through Canada's pass system in the 1880s, discussed in further detail in the next section.

intertwined with carceral xenophobia, enables and normalizes killing as a means of eradicating the threat of abnormality from society (255).

For Foucault, this idea of killing goes beyond the physical act of murder, taking into account "every form of indirect murder," including the increased "risk of death for some people, or, quite simply, political death, expulsion, rejection, and so on" (256). Through this understanding, we can see how carceral xenophobia and, more broadly and systematically, immigration detention, are part of a systemic form of violence or killing that is intended to make life within the state's borders "healthier and purer" (255). The existence of the undocumented monster for whom added layers of strangeness exist, is seen to further violate the natural order of things. The absence of identity documents singles out undocumented bodies as legal and natural anomalies, since notions of legal identities, natural identities and existence are fused by documents at birth. For the state, the legal and natural order of things requires our natural or biological existence to be written into a legal and bureaucratic existence. Without verifying our existence in this way and subsequently through other state-issued identity documents, which range from social insurance numbers to health cards to driver's licenses, existence itself becomes almost impossible. By detaining or deporting these undocumented bodies, the state seeks to contain or eliminate the legal, natural and embodied threats they pose, not only to the state but to the notion of existence itself.

Giorgio Agamben's description of the "bandit" (*Homo Sacer* 104) contains some similarities to Foucault's understanding of abnormality. With the bandit, which Agamben

associates with "the *wargus*, the wolf-man, and of the *Friedlos*, the 'man without peace,'" any person was permitted by law to kill the bandit since the bandit existed outside the boundaries and limits of the law (105). Since the bandit existed outside the legal boundaries and parameters of the law, the act of killing the bandit did not constitute an act of murder as defined by the law (104). In other words, those who were subject to the law could harm or kill those who were not subject to the law without fearing any legal repercussions. As Agamben notes, the bandit was in some instances "considered to be already dead" (105), not in a physical sense but in a legal sense. Lives that were deemed worth protecting were those that were subject to the law, whereas lives that became expendable were those that were not subject to the law.

The (non-)existence of the bandit or the undocumented monster, in my case, is defined by ambiguity and paradox. While these bodies exist, they belong to "*neither man nor beast*," nor law (105). It is this paradox that permits the undocumented monster, much like the bandit, to exist without existing, "dwell[ing] paradoxically within both while belonging to neither" (105). For the undocumented monster, in particular, its paradoxical existence sets it even further apart from Agamben's bandit. Whereas a process of becoming a bandit, which, involves both violating the law and, in turn, not being subjected to any of its legal protections, brings the bandit into an existence of non-legal existence, the undocumented monster is often born into an existence of non-legal existence. The law has never applied to the undocumented monster because the

undocumented monster has never been written into a legal existence in order to be then written out of it.

Historically, the fixation with state-issued identity documents began in revolutionary France in 1792. In what eventually became part of the first set of modern passport regulations, Andreas Fahrmeir explains that all travelers were required to carry state-issued identity documents on them at all times in order "to prevent the assembly of discontented persons at strategic locations and [to prevent] the infiltration of the country by the agents of hostile foreign governments, as well as to help suppress vagrancy, banditry, and crime" (219). Although state-issued identity documents and passports were used as instruments of identification throughout the eighteenth and nineteenth centuries, they were not regularly used or required for travel across Europe or North America until the beginning of the First World War. As Torpey writes, "[t]he booming of the guns of August 1914 brought to a sudden close the era during which governments viewed foreigners without 'suspicion and mistrust'…bringing an end to the *laissez faire* era in international migration" (111, 112). This does not diminish the fact that non-white foreigners have long been viewed through a lens of suspicion, particularly by white settler states who have disavowed their own foreignness and histories "of conquest, genocide, slavery, and the exploitation of the labour of peoples of colour" (Razack, *Race* 2). What Torpey specifically alludes to is that alongside the rising political, cultural and social tensions of the First World War, the passport was transformed on a global scale into a tool

that initially controlled and restricted the movement of foreigners, before also being used as an instrument to control and restrict the movement of citizens and nationals (111).

As the US became the primary destination for many migrants across the globe near the end of the 1800s, the US led the global movement towards introducing the passport and other bureaucratic mechanisms that regulated movement (93). The passport also created a uniformly and bureaucratic-based mode of documented existence, through which travel and migration were facilitated, albeit in ways that were not necessarily or experientially uniform for all travelers. At the time, undocumented individuals who were forced to migrate for whatever reason posed two significant problems to the governments in their destination countries: one, their identities could not be systemically verified through legal and bureaucratic mechanisms and, two, their movements could not be systematically monitored. The ability of undocumented bodies to continue to evade state surveillance apparatuses in a global and networked system of travel, movement and migration, which relies so extensively on legal and bureaucratic mechanisms that are increasingly becoming digital, makes their existence even more abnormal than before.

Torpey argues that the invention of the passport and its related controls on mobility and identification "is an essential aspect of the 'state-ness' of states" (3). It serves to not only distinguish one sovereign state from another, as well as one individual from another, but it also makes states and individuals part of a global community, adhering to a shared "set of norms and prescriptions" related to mobility and identification (3). By extension, states and individuals without passports and controls to

monitor, regulate or altogether prohibit the movement of those without passports, are relegated to the periphery of the global community. Their refusal to adhere to the system and shared set of norms and laws prescribed to by the international community, renders these states as rogue. Likewise, the mobility of undocumented bodies who originate out of these rogue states are perceived as anomalous and irregular. Thus, states also use passports or the absence of them as instruments of transnational inclusion and exclusion. They "define who belongs and who does not, who may go and who [may] not" (13) and, in this way, they "monopolize the legitimate 'means of movement'" to grant themselves "the exclusive right to authorize and regulate movement" (8).

If there is one thing that state-issued identity documents revealed following the attacks on 9/11, it was that identity documents as a form of a legal existence could not be used to detect or decipher monstrosity, criminality or abnormality. Mark B. Salter argues that while passports retain their "'high truth-claims' with regard to nationality, belonging, and citizenship," they do not guarantee security, nor do they lay claims to the holder's character or intentions (2). Passports are used to prevent known or even suspected criminals from entering the state through databases such as INTERPOL; however, as identity documents, their main function is to ensure that an individual's existence is legally validated. The global reliance on passports and other state-issued identity documents for travel has also led to other unexpected consequences.

One of these involves the creation of a high-demand market for fake or illegal passports. As far back as the nineteenth century, Fahrmeir notes that the birth of the

passport system started "a technological race between forgers and governments that continues unabated to the present day" (225). Furthermore, fake identity documents also offer undocumented individuals a more viable way of traveling outside their borders. Sadiq contends that fake documents are not only cheaper and easier to procure in some parts of the world, they are "as real as legal documents in the way they create a pathway to membership" (110). For undocumented refugees who are forcibly displaced, or for those who simply seek access to basic needs and necessities that are unavailable to them in their home countries, acquiring fake identity documents for travel far outweighs any legal repercussions they may encounter along the way. This is particularly the case when such repercussions can lead to the potential procurement of permanent resident status and/or citizenship in destination countries (110).

For some, though, the circumstances behind migration are so urgent and dire that acquiring fake identity documents are not an option. These undocumented individuals and families flee their homelands without a paper trail and can disappear as though they never existed. Risky and deadly migration routes, especially those through the Mediterranean that are used primarily by Middle Eastern, South Asian and African migrants (Sanchez and Black 100), often lead to disappearances and deaths. Overloaded rubber dinghies[19] on

[19] The increase in the use of rubber dinghies by migrants, as opposed to wooden boats, is believed to have indirectly led to an increase of migrant deaths in the Mediterranean (Sanchez and Black 103). Under the mandate of Operation Sophia in 2017, a military operation spearheaded by the European Union Naval Force Mediterranean, participating naval ships and aircraft sought to surveil and "destroy boats used by smugglers in the Mediterranean" (Sanchez and Black 103).

oversea journeys endanger the lives of these migrants, as do smuggling practices and violence, or pushback from various state authorities (103). More recently, some estimates predict that crossing the Sahara desert may in fact pose an even greater risk for African migrants than the Mediterranean (Thomson), "where corpses lie in the sun until they are swallowed by sand" (Laurent and O'Grady). The disappearances and deaths of undocumented migrants reinforce the ways in which human existence is viewed and validated through documentation. Whether migrants wash up ashore or disappear in the desert, their undocumented bodies often perish without a trace and as if they never existed.

Deaths of migrant populations are not restricted to the harsh conditions of these and other migratory routes. They also occur within the harsh conditions of detention centres. In Canada, Molnar and Silverman report that, "[s]ince 2000, at least 16 people have died while incarcerated in Canada's system of immigration detention, with a shocking four deaths since March 2016" (Molnar and Silverman, "Migrants"). Criticism of the CBSA's detention policies and facilities have contributed to the implementation of Canada's national immigration detention framework (NIDF). As a program that intends to "create a better, fairer immigration detention system that supports the humane and dignified treatment of individuals while protecting public safety" ("Arrests"), it makes no changes to two of the most concerning issues that have already been raised with detention in Canada: ending its indefinite detention program and establishing independent oversight of detention decisions and conditions.

In addition to other changes in the IHC infrastructure, part of the NIDF's 138 million-dollar investment over five years has been allocated to "minimizing the institutional look of facilities" ("Arrests"). Designed by Parkin Architects Limited, the exterior of the reflective, round glass-enclosed rotunda of the GTA IHC, does not bear the markers of a carceral facility that is used to detain immigrants.[20] Located between coffee shops and a bicycle distributer to its west, rental and car dealerships to its north, and restaurants and churches to its east, the GTA IHC sits rather inconspicuously on 385 Rexdale Boulevard. With two multi-million dollar contracts available in the design of the newly planned Laval IHC set to open in 2021, the Montreal-based architectural firm Lemay has emerged as one of the principal firms involved in designing the NIDF-funded detention facility (Schwartz). Similar to the aesthetics of the GTA IHC and in line with the government's desire to diminish the institutional look of more traditional detention facilities, the plans for the new IHC in Laval "describe a place that is aesthetically pleasing, with features such as foliage on the fencing and inconspicuous bars over windows" (Schwartz).

In her graphic novel on migrant detention architecture, Tings Chak shows how these spaces of confinement are intentionally blended into everyday landscapes (18). Their architectural invisibility, or lack of visibility, is no coincidence since we tend to "hide the things that we don't want to see or that we don't want seen" (18). By making

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[20] This renovation is only one part of the completed seven million dollar renovation and addition to the Toronto IHC.

the exterior of detention centres more aesthetically palpable to the public, the government conceals the monstrous bodies and conditions hidden within them. In so doing, they also conceal their practice of carceral xenophobia while making the people who are subjected to it mostly invisible (26). The architectural invisibility of these institutions operates within a larger politics of invisibility. If the undocumented monsters who are confined within these institutions are rendered invisible, so is the systemic and institutional violence that is meted out against them. Moreover, if the undocumented monsters are hidden away, deemed not to exist or are dead to begin with, then how do we discern the violence that is perpetrated against them?

Techno-carcerality and Life after Detention

The violence and invisibility of detention does not often end with the release of detainees. The adverse effects of confinement outside of institutional spaces is magnified when we consider that the longer detainees spend in detention, the less likely deportation becomes as an alternative (Silverman 30). If increased time spent in detention is associated with an increased likelihood of remaining in Canada after release, as well as "distress and a persistent negative impact on mental health after release" (30), why keep Toure detained for so many years? What implications does detention on the basis of (un)documentation have on the lives of detainees following their release into the community? For one, Silverman argues that the damage done by detention is not limited to those who have been detained (32). She describes a "ripple effect" that emanates from

the detention centres out into wider communities, "touching the detainee's networks but also ordinary residents who form negative impressions of detainees as criminals, deviants, and worse" (32). Surrounding community members who view detention with a stigma of criminality can, in turn, become extensions of the immigration and detention apparatus, closely monitoring detainees[21] on the outside for any 'signs' of deviancy or abnormality.

Not only do detainees contend with the physical and psychological consequences that are developed or exacerbated during detention, they must also contend with the perceived stigma associated with life after detention. In addition to these barriers, detainees grapple with the range of difficulties that new immigrants and refugees encounter, which include finding employment and housing, learning a new language and dealing with numerous financial constraints. These difficulties act as additional stressors that accelerate the decline in the physical and mental health of recent newcomers to Canada (Robert and Gilkinson 9), especially for refugees who are already considered to "be at a greater mental health risk compared to other immigrant sub-groups" (25). For failed refugee claimants who have been detained and then released, the odds of integration are highly stacked against them. As is evident with some detainees, social isolation continues well after detention as some tend to avoid contact with members of

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[21] I continue to use the term 'detainees' rather than 'former detainees' to refer and extend the terminology of detention beyond carceral institutions. Since many detainees on the outside continue to experience different degrees of carceral effects, ranging from the physical and the psychological to strict release conditions and the techno-carceral, I suggest that 'detainees' is a more accurate reflection of their subjectivities and positionalities.

their own ethnic or religious communities, largely out of fear of stigmatization and the spreading of false rumours (Klein and Williams 745).

Stifled by the sheer number of barriers they need to overcome, detainees who are released into the community are frequently left to fend for themselves. The state claims no responsibility for the physical and/or psychological damage that is done to detainees during detention, evident with the complete lack of state supports offered to Toure after his release. The conditions imposed on the release of detainees by the ID under section 53 of the IRPA, are often ones that further inhibit opportunities to integrate. While the main objectives behind the majority of release conditions are to ensure that detainees comply with pending or future removal orders, none of the release conditions assist or prepare detainees for life after detention.

In fact, many of the release conditions mimic subtler forms of decentralized power, control and confinement, which have a direct bearing on the lives of these individuals outside of detention. In the United Kingdom (UK), Axel Klein and Lucy Williams observe that, “former detainees describe living on the margins of society in constant fear of arrest, re-detention, and removal, without entitlement to work or other means of sustaining a reasonable quality of life” (743). For detainees with mental health issues, these fears can be intensified. While the Canadian government recognizes that vulnerable persons exist within its detention system, it refuses to claim any responsibility for them after detention. As Klein and Williams point out, “release from detention leads to a greater freedom of movement but not autonomy or self-determination. Being let out

suddenly without preparation is often felt to be as disruptive as the original arrest" (745). In part, techno-carcerality is meant to be understood and applied in this way: increased mobility in private and public spaces does not necessarily lead to an increased sense of freedom or autonomy.

Techno-carcerality is a way of understanding the deprivation of autonomy alongside the freedom of increased physical mobility. It extends beyond the "hyperghetto" that Loïc Wacquant' describes as "an ethnically and socially *homogenous* universe characterized by low organizational density and weak penetration by the state and its social components and, by way of consequence, extreme levels of physical and social insecurity" (*Urban* 5). Focusing on the carceral effects that the hyperghetto has on former Cambodian refugees and Cambodian-American citizens, Eric Tang builds on Wacquant's definition by adding that the hyperghetto operates as a "racialized geographic enclosure, displacement from formal labor markets, unrelenting poverty, and the criminalization of daily life" (5). If Tang's interpretation of mobile confinement is not apparent enough, Wacquant brings it to life by designating it as "a despised and loathed space from which nearly everyone is desperately trying to escape" (62). Through Wacquant and Tang, the hyperghetto emerges as yet another example of non-institutional confinement, a space in which the idea of physical mobility exists alongside a decreased sense of autonomy, warehousing some of society's most marginalized populations (Tang 10).

Still, the notion of techno-carcerality shifts away from viewing specific racialized, geographic spaces or enclosures of confinement to viewing confinement from a less perceptible and more abstract perspective, physically, psychologically and technologically. I focus on the ways that techno-carcerality can be understood through mobile technologies and, specifically, through electronic monitoring (EM) and voice reporting (VR), two of the most important components of the ATD program introduced by the NIDF in 2018. I build on the views of Nick Gill et al., who describe mobile technologies as ones that "render homes, workplaces and public space effective extensions of carceral space" (193), arguing that techno-carcerality should be understood as both an obfuscation of carceral space and as an extension of it, using the vast range of its technological capacities and wireless, mobile infrastructures to control and confine detainees in the spaces of everyday life. Not only do these technology-based, detention alternatives serve to remind detainees of their continued detention and limited freedoms outside of traditional carceral spaces—despite their increased physical mobility—they also allow the state to engage in acts of exhaustive surveillance and dataveillance, "push[ing] the logics of punitive mobility in new directions" (Gill 26).

Technologies like EM are often seen as softer alternatives to detention or incarceration (Gill 28). These views frequently arise from the perceived increase in physical mobility that EM provides detainees on the outside. Certainly, for some detainees, EM does indeed offer an improvement to the harsh conditions of detention. For others, however, the added pains and responsibilities associated with EM can create a

"deprivation of liberty and autonomy" (28), which, although are experienced differentially, are no less constraining than detention (27). As part of the ATD program, the CBSA began its two-year EM pilot project on 22 June 2018. Piloted on detainees who reside within the GTA, the EM program is meant for detainees who are unlikely to appear for removal hearings and on those who may pose a danger to public safety ("Electronic"). Although the CBSA can deploy the EM program under sections 44, 55 or 58 of the IRPA, the technology and its infrastructure are provided through a partnership with the CSC ("Electronic"). As a system that is "built upon real-time location data collected and analysed in a central facility and reported to regional staff to pursue for enforcement as appropriate" ("Electronic"), the EM program was initially developed by the CSC in response to the 2013 recommendations of the Standing Committee on Public Safety and National Security ("A Profile"). Its objective was to provide an overall assessment and cost-effectiveness analysis of EM with federal offenders ("A Profile").

In the immigration context, the EM program can be imposed as one of the conditions of release by the ID or the CBSA, in which case an ankle monitor is secured to the body of the detainee and a radio frequency (RF) modem is installed at their place of residence ("A Profile"). The ankle monitor transmits signals to a receiver/modem that is connected to a telephone landline or cellular network, which, in turn, connects to a central computing facility or a central monitoring unit ("British Columbia," Appendix A-1). The current RF-based EM technology in use with detainees "provides notifications of the subject's presence or absence when they enter or leave home" (Appendix A-1, A-2).

However, as other EM programs in the US have recently demonstrated, the surveillance capabilities of these devices, and particularly those with global positioning systems (GPS), can be used by law enforcement agencies to not only continuously track the movements of an individual in and out of different spaces, but to also listen to conversations without user consent (Kaplan). In a verdict reached by the D.C. Court of Appeals on 22 August 2019, the Washington D.C. Metropolitan Police Department was granted the power to access location and other surveillance data from EM devices equipped with GPS (Kaplan).

In contrast to the GPS-enabled devices that are used in the US and in the Canadian correctional system, the EM devices currently in use on detainees are more limited in their scope of state surveillance. But since detainees have no say or access as to how the collected data are aggregated and used, the limited surveillance capabilities of these devices make little difference to those who are required to wear them. Whether EM devices allow for continuous tracking or for more restricted tracking is a concern that does not drastically alter the effects of techno-carcerality on the detainee. Regardless of the technological and surveillance capabilities of the devices, the EM program creates and sustains techno-carcerality through the physical and psychological effects it has on those who wear the devices.

In some ways, EM reflects more traditional forms of detention in that it produces both physical and psychological distress. Physical distress can manifest itself in various ways, including discomfort around the ankle, skin reactions and irritations that are further

aggravated by heat in the summer months (Klein and Williams 748). In other ways, physical distress with EM is literally more confining. Some devices require charging "for two hours at a time via a two-foot charging cable," thus imposing an at-home carceral feeling of confinement (Albert and Delano). Keeping these devices connected, charged and functioning at all times becomes the sole responsibility of the user. Detainees who fail to meet these requirements can be re-arrested or re-detained (Klein and Williams 748), adding another layer of "significant anxiety" (Albert and Delano) that they are forced to contend with on an everyday basis.

The visibility of the ankle monitor can also produce psychological distress in social situations (Klein and Williams 748), requiring detainees to negotiate their own inward gaze and the gaze of others, often perpetuated by the social stigma associated with wearing such devices. As Avril Maddrell emphasizes, EM is "predicated on complicit self-monitoring and self-management" (223). To limit the psychological distress that they can encounter in social, public and private settings, including feelings of anxiety, embarrassment and humiliation (Gill 29; Michalon 47), detainees with EM devices restrict and self-police their physical mobility by reducing their social interactions. These self-imposed measures reduce their quality of life (Klein and Williams 743), while also serving as potential coping mechanisms that allow detainees to grapple with the onset of these newly-developed, psychological stressors.

As with EM, VR can also be imposed on immigration detainees under sections 44, 56 or 58 of the IRPA ("Voice Reporting"). The program, which became available across

Canada on 6 July 2018, works by requiring detainees "to call an automated system at regular intervals" for the purpose of determining their whereabouts and authenticating their identities ("Enforcement 34," 5). With each call made, the identities of detainees are verified in real-time "by comparing a biometric sample of their voice with a sample given at enrolment" (5). In addition, making calls from mobile phones allows the CBSA to more effectively manage detainees (11). This is accomplished by sending detainees regular reminders and notifications the same morning that they are required to report using text messaging (11, 14). Through the use of mobile phones, the CBSA also records the GPS coordinates of detainees who call in to report (11), a critical surveillance feature that is not available with EM devices in the NIDF.

For the state, one of the benefits of VR is that it broadens the scope of state surveillance, authorizing the CBSA to confirm the geolocation of detainees who are part of the VR program (13). If a failure to report occurs, detainees are sent a "text message shortly after midnight the day after their scheduled reporting event to remind [them] to report immediately to the CBSA VR System" (14). At the same time, the alternatives to detention monitoring centre (ATDMC), a newly-established unit created for the VR program, conducts an initial review of these cases and determines if any enforcement actions by the CBSA should be taken against any individual, including arrest and/or detention (15).

With this practice of techno-carcerality, detainees are more extensively monitored without some of the physical and psychological distresses that are commonly associated

with EM devices. While the VR program may ease some of the physical and psychological distresses that are experienced by detainees as a result of having an ankle monitor shackled to their bodies, it can also trigger other psychological distresses that are unique to VR. As some critics have noted, "even the best voice recognition technology is nowhere near 100 per cent accurate" ("CBSA Turning"). In fact, voice biometrics are considered the least accurate of all biometric authentication systems (Miles and Cohn). The potential inaccuracy of pairing the biometric voice sample taken at enrolment with any future VR calls made, can flag detainees for further assessment by the ATDMC, leading to a continuous sense of anxiety. In other words, following the conditions of one's release by calling in to report may not necessarily guarantee one's safety from being investigated, re-arrested or re-detained.

Adding to this sense of anxiety is the reliance on mobile phones and networks as the primary source of communication and identity authentication. Beyond sharing some similar technical concerns with EM devices, such as ensuring that mobile phones are fully charged and operational, detainees who take part in the VR program must also ensure that their mobile phones are always connected to the CBSA's prescribed mobile network carriers. By making mobile phones one of the main technologies through which detainees are tracked and monitored in the NIDF, the state conceals the carceral nature of these technologies behind their broader social and cultural normalization. Effectively, what appears for the general public to function as a device that primarily facilitates some level of communication, entertainment and/or consumption, operates as a device whose

primary function is to facilitate a sense of constant anxiety for detainees as an instrument of techno-carcerality. For these individuals, every text message or phone call they receive or potentially fail to receive can be a source of imminent carceral anxiety.

Along with being a less stigmatized alternative to EM, VR is considerably cheaper, not requiring the hardware and infrastructure that is necessary and specific to EM. Historically, EM programs in Canada, Wales, the UK and the US, have all been implemented to reduce the more expensive costs associated with correctional incarceration (Bonta et al. 2; Yeh 1094). However, as James Bonta et al. show, there are conflicting studies about the cost-effectiveness of EM, including some studies that found EM to exceed the cost of incarceration rates in the correctional setting (3). Although the VR program is relatively new and untested in the immigration context, requiring further research in this area, it may prove to be a more cost-effective alternative since voice biometrics are a significantly cheaper alternative to other biometric programs (Thakkar). Their existing familiarity in contemporary culture also makes voice biometrics a more convenient and, seemingly, less intrusive alternative to other biometrics (Edwards). The use of Apple's Siri or Amazon's Echo or Alexa have made voice recognition and interaction with technological devices rather commonplace, and perhaps even mundane or routine for some.

What makes the VR program a more viable alternative than EM is the capacity to entirely conceal its carceral functions within the ubiquity and indispensability of contemporary, mobile phone culture. With approximately eighty-eight per cent of

Canadian households owning mobile phones and devices that have access to the Internet from almost any location ("Communications Monitoring" 25), not owning a mobile phone or device is considered far more atypical. Mobile phones are also more advanced surveillance and dataveillance technologies than EM. They allow individuals to be tracked through GPS, across mobile networks and digital spaces in ways that use existing sensors, which operate independently of any GPS interfaces. Not only do modern mobile phones and smartphones, in particular, contain accelerometers, gyroscopes, magnetometers, barometers, microphones, cameras, thermometers, pedometers, light sensors and humidity sensors, people and mobile apps "can access most of these sensors without asking for permission from the user" (Noubir). Some of these sensors also permit mobile phone users to be tracked even when their location-tracking services are turned off (Noubir; Zuboff 245).

The extent to which mobile phones can be used to surveil detainees, beyond the methods explicitly outlined by the CBSA, opens the door to a range of potential abuses or misapplications of VR technology that will have to be further scrutinized. For example, by using a combination of a mobile phone's built-in sensors, these devices can become vehicles for what are referred to as "side-channel attacks" (Noubir). More simply put, mobile phones can be used to surveil phone users in quite deceptive ways, including the use of a phone's gyroscope and microphones to discover secret passwords by determining the device's physical orientation and listening to the user's on-screen finger-typing

(Noubir). These methods of surveillance enable a form of watching detainees that is only made possible through mobile phone technologies.

Contrary to the perception that mobile phones contribute to an increased sense of freedom by allowing users to exercise their freedom in experientially different ways, mobile phones in the VR program bolster the notion of techno-carcerality as a mode of governmentality. It enables the state to not only restrict the mobility of detainees through mobile phones, reframing this restricted means of mobility as a form of incarceration (Gill 29), but it also controls and restricts freedom of detainees through the immense data that flows from their bodies and through the technologies to which they are tethered. Through a Foucauldian lens, the bodies of detainees are controlled and confined by the invisible power relations that are exercised through techno-carcerality. The panoptic power relations that are sustained by making detainees "visible" while making the source of their visibility "unverifiable" (Foucault, *Discipline* 201), is central to techno-carcerality.

In the digital age, these carceral technologies see detainees as perpetual "object[s] of information" and never as "subject[s] in communication" (200). While definitions of incarceration, confinement or detention often revolve around issues of spatial enclosures and mobility, these definitions cannot be isolated from the more abstract, digital spaces and flows of data that are connected to bodies and their data doubles through techno-carcerality. Thus, the digital panopticon and its more abstract modes of control and confinement extend beyond the discipline and punishment of conventional carceral

institutions. The digital panopticon subjects its inmates to relentless and opaque forms of control and confinement, which conceal themselves within the ebbs and flows of everyday life in the digital age.

Conclusion: Breaking through the Machination of Immigration Detention

The surveillance of undocumented refugees will likely become an even greater issue for states in the near and distant future. According to the US Geological Survey, the rise in global warming rates and surface temperatures is likely to increase droughts, the intensity of storms and natural disasters across the globe ("Climate"). As early as 2020, "between 75 and 250 million people [in Africa] are projected to be exposed to increased water stress; yields from rain-fed agriculture could be reduced by up to 50 percent in some regions…[and] agricultural production, including access to food, may be severely compromised" ("Climate). By the 2050s, "[f]reshwater availability [is] projected to decrease in Central, South, East and Southeast Asia…coastal areas will be at risk due to increased flooding; [and the] death rate from disease associated with floods and droughts [is] expected to rise in some regions" ("Climate"). Although recent trends indicate that most forcible migrations as a result of environmental and climate change lead to intra-border migrations, the effects of climate change are also expected to increase transnational migrations ("Environmental").

Organizations such as the Canadian Council for Refugees, the End Immigration Detention Network and the Global Detention Project, have repeatedly called for an end to

immigration detention in Canada and abroad, often citing the detrimental psychological effects of detention on detainees, which include the wrongful criminalization of migrants and the inhumane conditions of detention practices and facilities. More recently, this has come to the fore with the detention of migrants and migrant children in the US, where children as young as two years old have been separated from their parents and detained "in jail-like border facilities for weeks at a time without contact with family members, regular access to showers, clean clothes, toothbrushes, or proper beds" (Long and Austin-Hillery, 2019). In other parts of the world, we have seen the mass detention of ethnic Uighurs in China, the mass detention of Muslim populations in India and the continued detention of forcibly displaced migrants across Europe. Amidst the rise of immigration detention centres around the world, calling for an end to immigration detention is perhaps more critical now than it has ever been. Yet, we must also not lose sight of detention alternatives that deploy mobile and carceral technologies as part of governmental strategies to advocate for more enhanced ways of physically, psychologically and digitally confining populations outside of detention centres.

Given the state of current and future global surveillance, can groups and individuals targeted by the surveillance and carceral apparatuses of the immigration and detention system, resist or subvert the scope of its carceral reach? We have seen some examples of resistance to state controls built into the global passport regime from Indigenous peoples in what Audra Simpson refers to as "willful detainment" (182). For example, on their way back to Canada from the International Climate Change Conference

held in Bolivia, Simpson highlights the story of three Mohawks of Kahnawà:ke with Haudenosaunee passports who were detained for seventeen days in El Salvador in 2010 (18). Instead of agreeing to accept Canadian government-issued emergency travel documents (18), which amount to state-issued passports, the three Mohawks of Kahnawà:ke refused, choosing instead to wait until they were allowed reentry into Canada with their Iroquois Confederacy passports (19).

That same year, although under different circumstances, the Iroquois Nationals Lacrosse Team chose not to travel to Manchester, England, for the World Lacrosse League Championship tournament after the UK "refused to recognize the Haudenosaunee passport as secure and therefore legitimate…passports [that] were signed and issued by the chiefs of the Iroquois Confederacy, a governance structure that predates the United States and the United Kingdom by at least three hundred years" (25). Simpson suggests that acts of willful detainment or willful refusals to travel stem from a desire to not forget or abandon "the deep history, philosophy, and authority of Iroquois governance" (25). In these instances, rejecting the state's authority by refusing to abide by its passport system and regulations, also functions as a repudiation of the colonial state and the colonial histories (25) upon which Canada's state-ness is built.

For undocumented refugees who tend to be forcibly displaced, willful detainment or refusal are not modes of resistance they can ordinarily undertake in their home countries or abroad. Their desire to protect themselves and safeguard their families often outweighs the inherent dangers that are associated with migration and immigration

detention. Dispossessed of the agency to exercise the same rights and modes of resistance as others, we may look to the multiethnic neighbourhood of Exarchia in Athens, Greece, as one example of how refugees, citizens and volunteers work together to subvert and resist the state's desire to purge itself of undocumented persons. Exarchia, situated near the centre of Athens, next to what is commonly known as "the 'historic triangle' of Syntagma parliament building, Monastiraki (under the Acropolis) and Omonia Square," has long been known as a site of political resistance in Greece, dating back to student protests of the 1967 dictatorship and the emergence of "left-wing movements, anarchist collectives, intellectuals, activists and, notoriously, urban guerrilla terrorist groups like 'November 17'" (Baboulias). Not only has Exarchia proven to be "a space for urban resistance" (Baboulias) for generations of young Greeks, some more extreme and violent than others, it has more become a sanctuary city within a city for undocumented refugees (Rampen).

Unsurprisingly, the dominant narrative that has surrounded Exarchia in recent years of economic hardships, escalated police violence and increased migration and detention in Greece, has focused on the neighbourhood as "[a] stronghold of dangerous anarchists" (Baboulias). But despite this mainstream narrative, local residents and anarchist groups have occupied public spaces and empty buildings, allowing them to revitalize the urban neighbourhood "with alternative businesses, like independent bookshops, co-op cafes and restaurants and even entire theatres," embracing alternative lifestyles and welcoming immigrant communities (Baboulias). One small anarchist group

comprised of Greeks, Danes and refugees turned "Clandestina, an empty government building that already been home to squatters…into refugee accommodation" for mostly Iranian and Afghan refugees (Rampen). Other buildings, including the City Plaza Hotel, have served similar purposes, providing shared housing accommodations for Kurds, Syrians, Iraqis and, to a smaller extent, refugees from West Africa and Bangladesh (Rampen). Although Greece's New Democracy party, a centre-right government elected in July 2019, has begun to fulfill their platform promise to 'clean up' Exarchia by serving eviction notices and refusing to issue social security numbers to those seeking asylum, depriving them of the opportunity to find work or access health care services (Rampen), the residents of Exarchia continue to demonstrate how to resist and subvert the state by building cross-cultural solidarity.

Exarchia can also serve as a model for resistance in Canada and elsewhere. While there is currently no effective way for refugees or citizens to prevent immigration detention outside of continued calls, protests and demonstrations to end detention and its inhumane practices, Exarchia's example of cross-cultural solidarity and solidarity activism does more than provide refugees with the bare necessities for life. Solidarity activism politicizes refugees in a system that increasingly seeks to depoliticize and delegitimize their existence. When some of the basic necessities for life are met, although certainly not under ideal conditions or circumstances, surviving no longer becomes the sole concern for undocumented refugees and their families. As such, refugees, citizens and activists have time and opportunities to work together to create personal

relationships, build solidarity and learn from and with one another, with the goal of reimagining and implementing new modes of resistance. This may or may not take the forms of urban resistance that we have seen in Exarchia, but they may certainly take less complex or precarious forms of resistance. For example, by helping to provide refugees with free access to English language instruction, access to legal counsel and health care, which agencies such as the Canadian Council for Refugees and Canadian Doctors for Refugee Care already provide, refugees can begin to take on and overcome some of the systemic barriers they encounter in the immigration and detention system. The first step of any form of resistance or activism, refugee or otherwise, is the capacity to identify and understand what the oppressive structures are before one can begin to challenge or dismantle them.

Chapter 2

Policing, Surveillance and Dark Sousveillance in the Age of Information Capital

> "The machine turns, turns and must keep on turning—for ever."—Aldous Huxley, *Brave New World* (42).

Introduction: Police Caught on Camera

Following a violent altercation on 13 August 2007, Paul Boyd, an illustrator from Vancouver, British Columbia (BC), was shot and killed by Constable Lee Chipperfield of the Vancouver Police Department (VPD). According to the 2009 media statement published by the Criminal Justice Branch in BC, Boyd suffered from a long history of bi-polar disorder and had stopped one of his medications four days prior to the shooting (MacKenzie 1). On the night Boyd was shot and killed, several residents, pedestrians and other witnesses, including staff and customers from a restaurant that Boyd visited earlier that evening, reported that his actions and behaviour seemed erratic (2). When VPD officers arrived on scene and confronted Boyd in both marked and unmarked police vehicles, they alleged that Boyd held a hammer in one hand and a bicycle chain with a padlock in the other. The responding officers also alleged that Boyd used the chain and padlock as a weapon to attack them.

During the brief confrontation between Boyd and the VPD, which only lasted approximately three minutes from beginning to end, the VPD attempted to subdue him with physical force, including the use of a police baton. While Boyd managed to briefly escape, he was quickly pursued and surrounded by VPD officers. Chipperfield drew his

service pistol and pointed it at Boyd, instructing him to get to the ground. When Boyd refused to comply and chose, instead, to slowly approach Chipperfield while still allegedly holding the bicycle chain and padlock, Chipperfield fired multiple gunshots, dropping Boyd to the ground. Not completely incapacitated but unarmed and defenceless, Boyd crawled towards Chipperfield when the officer fired an additional two gunshots, fatally striking Boyd in the head. Many of the fifty-five civilian witnesses, in addition to the subsequent investigation, confirmed that Boyd was indeed unarmed at the time he was fatally shot.

Unfortunately, Boyd's shooting is not an isolated incident. Although fatal police shootings in Canada are not as commonplace as they are in the United States (US), a CBC study and analysis shows that since the year 2000, fatal police encounters in Canada have been on the rise (Marcoux and Nicholson). The CBC analysis details that between the years 2000 and 2017, there have been 461 fatal police encounters with more than seventy per cent of the victims suffering from mental health issues and/or substance abuse problems (Marcoux and Nicholson). Boyd's shooting is relevant to this chapter because it was one of the first fatal police incidents in Canada to be partially captured by civilian video, surfacing in May 2012 nearly five years after the incident occurred ("VPD Officer"). While the video that was captured by Andreas Bergen, a tourist from Winnipeg, Manitoba, does not record or detail the events of the entire incident, it does capture the last few moments of Boyd's life, including the moment in which Boyd was fatally shot ("B.C. Police"). Although the video was considered as evidence when Boyd's case was

reexamined by BC's Criminal Justice Branch, their final report concluded that no criminal charges would be brought against Chipperfield. As special prosecutor Mark Jetté noted, there was insufficient proof "'beyond a reasonable doubt that the shooting of Mr. Boyd constitute[d] a culpable homicide within the meaning of the Criminal Code of Canada'" (qtd. in "VPD Officer").

As one of the first fatal police shootings in Canada to be captured on a civilian-recorded camera, one question that it raises is: what is the role of mobile video surveillance and footage in violent and fatal police-civilian encounters? We know, as a matter of fact, that the recent rise of video-recorded footage of fatal police shootings has not reduced the number of violent and fatal police-civilian encounters. Whether we consider top-down surveillance in the form of closed-circuit television (CCTV) footage, or what Steve Mann et al. call "sousveillance," a form of inverse surveillance that allows civilians to use panoptic technologies such as mobile phone cameras "to help them observe those in authority" (332), neither has seemed to have had any significant effect in reducing the number of fatal police shootings of civilians. In the US and according to *Washington Post*, there were 995 people shot and killed by police in 2015, 963 in 2016 and 987 in 2017 ("Fatal Force"). Of the 987 shootings in 2017, 237 civilians shot dead had known mental illnesses, sixty-eight were unarmed, twenty-six were in possession of toy weapons, twenty-eight were under the age of eighteen, and 102 of these deaths were recorded by body-worn cameras (BWCs) ("Fatal Force"). Despite the increase of mobile phones and video evidence, very few police officers have been charged or convicted of

these shootings. In the US, from 2005 to April 2017, only "80 officers had been arrested on murder or manslaughter charges for on-duty shootings" and, of those eighty, only "35% were convicted, while the rest were pending or not convicted" (Park).

The exorbitant number of civilian deaths at the hands of police officers, particularly in the US, has given significant momentum to the adoption of police BWCs. High-profile, fatal police shootings captured by civilian mobile phone cameras, disproportionately involving unarmed Black men, have prompted widespread calls for the implementation of police BWCs. Even the American Civil Liberties Union (ACLU) has come out in support of BWCs with the caveat that "they are deployed with strong policies, despite the fact that they are government cameras with a very real potential to invade privacy" (Marlow and Stanley). As of November 2017, out of the sixty-nine major police departments across major cities in the US, sixty-two of them had used BWC programs with varying degrees of policy provisions (Yu et al.). Two common threads that have factored into the widespread adoption of police BWCs include reducing police use of force incidents and reducing civilian complaints (Ariel et al., "Wearing Body" 747).

In theory, the adoption of BWCs should "lead to [a] myriad [of] benefits, including enhanced police legitimacy and professionalism" (747). The ubiquity of mobile phone cameras at scenes of police-civilian encounters should logically trigger what Barak Ariel et al. call an "accountability cue" ("The Deterrence" 4), making police actions and behaviours in public spaces more visible and, therefore, more accountable. Despite what should constitute a logical self-awareness of one's circumstances and surroundings,

evidence suggests that mobile phone cameras have not had a deterrent effect on police behaviour and misconduct (4; Yokum et al. 22). In more apparent cases of police violence, where police officers are explicitly aware of mobile phone cameras that are present and recording them—even looking or speaking directly into mobile phone cameras themselves—police behaviour or misconduct still remains unaffected (Ariel et al., "The Deterrence" 5). The same seems to hold true for the effects that police BWCs have on the behaviour or misconduct of the general public, as well as the effects on police officer use of physical force (Ariel et al., "Wearing Body" 750). In actuality, research shows that police officers equipped with BWCs have a higher chance of being assaulted during their shifts than those without BWCs (750).

As police BWCs become more prevalent, even amongst Canadian law enforcement agencies, more research will undoubtedly emerge regarding the long-term and consequential effects that BWCs have on both officer and civilian behaviour and safety. While there is a growing body of scholarly literature that addresses some of these issues, the gap this chapter aims to address focuses on the esoteric relationship between top-down surveillance and bottom-up surveillance, including what Simone Browne calls "dark sousveillance" (21). As an extension of Mann's et al. sousveillance, Browne uses dark sousveillance to not only speak to practices that permit and encourage the observation of those in authority, "it also provides a way to frame how the contemporary surveillance of the racial body might be contended with" (24). Drawing on Kevin D. Haggerty's and Richard V. Ericson's theory of the surveillant assemblage, where bodies in

physical spaces are abstracted as flows of information (606), this chapter examines how the data yielded by BWCs, mobile phones and other technologies are collected, analyzed and disseminated in ways that allow public spaces to be physically and digitally policed. While this chapter views the relationship between BWCs and civilian mobile phones as vastly different technologies that seem to be intuitively incompatible and oppositional to one another, it looks beyond these apparent disparities. I question how these technologies might work in tandem to produce more ubiquitous and voluntary forms of top-down surveillance through necessary acts of sousveillance, dark sousveillance and digital activism.

I also look at the relationship between surveillance, sousveillance and dark sousveillance as wearable computing devices, incorporated as part of ordinary wardrobes and uniforms, "always ready for use because [they] are worn like clothing" (Mann, "Wearable Computing"). In many ways, police BWCs and civilian mobile phones are inseparable from their respective human bodies, worn either on or in our everyday clothing. The vast amounts of data these technologies produce for different purposes and under different circumstances, cannot be isolated from the physical bodies on which they are either worn or carried. We may look at the similarities between these technologized bodies in line with what Donna J. Haraway calls "the image of the cyborg…a hybrid of machine and organism" (16). Similarly, Nigel Thrift refers to this hybridity as producing what he refers to as "new hybrid entities" (470). In the digital age, however, we might more accurately view these bodies as human, data-generating machines. In so doing,

Deborah Lupton suggests that the "nexus of human bodies, digital devices…and data offers some intriguing possibilities for thinking through the contemporary experience of the digitised human" (56). Despite the clear and critical distinctions that must be made between the bodies of police officers and those of civilians creating and partaking in acts of sousveillance or dark sousveillance, there are also ways of, perhaps begrudgingly, reconciling some of these differences by viewing both as digitized humans or as data-generating machines.

In the first section of this chapter, I take up a case study of the fatal shooting of eighteen-year-old Sammy Yatim, shot and killed by Constable James Forcillo of the Toronto Police Service (TPS) on 27 July 2013. The Yatim shooting was captured in gruesome detail by the security video on board the Toronto Transit Commission (TTC) streetcar in which he was shot and killed, as well as videos that were uploaded to YouTube by Martin Baron and others from their mobile phones. The TTC video footage proved to be critical in providing the jury with enough video evidence to find Forcillo guilty of attempted murder. The videos captured on mobile phone cameras and uploaded to Youtube also proved to be indispensable to the Special Investigations Unit (SIU), the ensuing court case and Forcillo's subsequent guilty verdict (Andrew-Gee).

Although the video evidence was pivotal in both laying criminal charges against Forcillo and proving his guilt in criminal court, the shooting of Yatim sparked widespread calls for the use of police BWCs across Canada. Ian Scott, the executive director of Ontario's SIU in July 2013, claimed that because the video evidence was so integral to the

case, "the [Toronto Police] force should consider body cameras for all officers" ("Forcillo Trial"). In response to an independent review requested by former Chief of TPS William Blair following the Yatim shooting, Justice Frank Iacobucci recommended that BWCs be issued "to all officers who may encounter people in crisis to ensure greater accountability and transparency" (30). Drawing on the Yatim shooting, I trace the emergence of police BWCs in Canada, while critically examining the response of the police to this controversial shooting as one that somehow required the addition of more top-down surveillance measures.

Following the unsuccessful TPS BWC pilot project that began in 2015, where the TPS cited the exorbitant costs of storing collected data as one of the main impediments in adopting BWCs (Whynot et al. 3), the second section of this chapter queries the collaboration between the private technology sector and the public policing sector. It looks at the relationship between Axon corporation and Public Safety Canada, and what this relationship may mean for the future of policing and surveillance in Canada. In considering why police BWCs have yet to be officially adopted by the TPS and other Canadian law enforcement agencies,[22] I explore how emerging partnerships between private technology firms and public law enforcement agencies are likely to result in the

[22] In August 2020, Mayor John Tory and the TPS Board approved the purchase of 2,350 BWCs from Axon as part of a pilot project that will span five years and cost nearly thirty million dollars (Chidley-Hill). Following the mass protests of George Floyd's and Regis Korchinski-Paquet's deaths at the hands of police, Mayor Tory believes that BWCs will lead to "'[i]mproved accountability'" and a "'rebuilding [of] trust between police and communities'" (qtd. in Chidley-Hill).

adoption of police BWCs and potentially other surveillance technologies. I also examine how the evolution of BWC technology is changing in ways that clearly benefit law enforcement agencies without any regard for the public's right to privacy. As Elizabeth E. Joh argues, BWCs can be equipped with software applications such as license plate readers and facial recognition technology ("Beyond" 135), constantly scanning public space for information to gather and process. Since the police already collect data from private databases that include information about our health, employment and credit (Joh, "Beyond" 134), to what end might existing and future police BWCs continue to blur important boundaries between policing and data privacy?

The third section pivots from BWCs to mobile phone cameras, concentrating on the multiple and complex processes involved in capturing police violence on civilian mobile phone cameras. I look specifically at how mobile phone cameras have been used as technologies of dark sousveillance, activism, resistance and, counterintuitively, as technologies for additional top-down surveillance. Although mobile phone cameras are used to document incidences of disproportionate, race-based police violence, users often rely on the Internet and on social media platforms to disseminate these acts of police injustice. Mobile phones and the Internet are also used as vehicles for mobilization. For example, following the fatal police shooting of Michael Brown in 2014, the Black Lives Matter (BLM) movement turned to social media as a way of gathering "live, raw information…[and] summon[ing] people to the streets and coordinat[ing] their movements in real time" (Stephen).

This section also takes into account the race-based digital labour that goes into these acts of bodily and digital modes of resistance, or what Ben Brucato more broadly calls "cop watching" (46). As these forms of counter-surveillance, physical and digital labour tend to be taken on by Black bodies, members of the Black citizenry are often tasked with generating vast amounts of data as a way of documenting and shedding light on their overrepresentation in violent and fatal police encounters. In turn, their labour in the form of data flows are exploited by law enforcement agencies in racially-motivated ways. For instance, policing and surveillance practices that involve the monitoring of online hashtags such as #BlackLivesMatter, #DontShoot, and #ImUnarmed (Ozer), work to reproduce the "tropes of anti-Blackness that were created centuries ago" (Maynard 161).

The fourth and final section of this chapter examines how BWCs and mobile phones have given rise to data-driven and predictive policing models. I examine the ways that abstracted policing techniques that tap into the data flows of the digital citizenry, have created technologies, spaces and systems of non-correctionalist crime control (Garland 103). This section takes a deeper look at what the 2017 Final Report by the Transformational Task Force for the TPS describes as the "connected officer" ("Action Plan" 25). In the push toward digitizing the bodies of TPS officers by equipping them with smart mobile technologies that will enable predictive approaches to policing (16), I argue that the turn toward data-driven and predictive policing will exacerbate existing racial disparities by algorithmically replicating them. The rapid advancements and

evolution of data-driven, police surveillance technologies in the name of cost-effectiveness and efficiency, will only further endanger racialized communities. As police officers are made to rely on data-driven, algorithmic policing models, they can be spatially deployed to existing 'high crime areas,'[23] not simply as a means of predicting and preventing future crimes from occurring, but as a means of continuing the long history of discriminatory policing practices that have predominantly targeted Black and other racialized people.

The Killing of Sammy Yatim and the Birth of BWCs

Yatim was born on 5 November 1994 to a middle-class family in Aleppo, Syria. His father, Nabil Yatim, immigrated to Canada in the late 1960s and worked as a management consultant in Scarborough, Ontario, while his mother, Sahar Bahadi, remained in Aleppo and worked as a pediatrician (Rogan). Before coming to Canada in 2008, Yatim attended Al Amal, a prestigious private school in Aleppo (Alamenciak and Ghafour). His time there is described by friends as typical of many other Syrian teenagers, despite the increasing geopolitical tension and instability that was enveloping the region at the time. As part of a social network of friends that included Christians and

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[23] The notion of 'high crime areas' is a statistical misnomer evoked by law enforcement agencies through an ahistorical lens. As Robyn Maynard suggests, instead of viewing this as just one indication of the many racial disparities across the criminal justice system and the institution of policing, part of a genealogy of disproportionately "high rates of Black incarceration [that] date[] back four centuries in Canada," the notion of 'high crime areas' is often seen as geographic evidence "of the prevalence of Black criminality" (84).

Muslims, Yatim spent much of his time at local cafes (Alamenciak and Ghafour). After moving to Canada, he enrolled at Brébeuf College in 2008, an all-boys Catholic high school in North York, Ontario. During his short time at Brébeuf College, he met two individuals who became his closest friends, Nadeem Jeries and Sasha Maghami. Although Yatim struggled to culturally adapt as a new immigrant, he was remembered by one of his teachers as a polite student who kept up academically through grades nine and ten (Alamenciak and Ghafour).

In his senior year, Yatim transferred to an alternative school and began hanging out with what others observed to be a "tougher crowd" (Rogan). Shortly thereafter, he lost some of the academic focus he earlier had and turned to cannabis (Rogan). Yet, as his close friend Maghami recalls, whenever they spoke to each other privately, the tough-kid image seemed to disappear: he was "'[a]lways smiling, laughing all the time, playing his guitar, talking about his mom and sister'" (qtd. in Alamenciak and Ghafour). With his parents now divorced, Yatim and his father argued frequently about his academics and cannabis use. After one such argument, which ultimately proved to be irreconcilable, Yatim moved out of his father's residence and rented a room with friends in Toronto (Alamenciak and Ghafour). Despite the fallout with his father, Yatim's friends maintained that his outlook on life and the future remained quite positive. He planned on studying health services management at George Brown College in the Fall of 2013, in hopes of following a similar career path to that of his mother.

Mere hours before the fatal shooting, Yatim and Jeries spent most of the evening planning a party together at a shopping mall near Don Mills and Sheppard Avenues. At about 10:30 p.m., the two friends parted ways for the last time. Jeries watched as Yatim enter the Don Mills subway station but, to this day, still does not understand why Yatim ventured downtown the night he was shot and killed. According to Jeries, Scarborough was always "'[t]heir preferred stomping ground'" (qtd. in Alamenciak and Ghafour). In fact, Jeries was fairly certain that Yatim had "'never t[aken] a streetcar in his life before'" (qtd. in Alamenciak and Ghafour). The truth is that nobody knows exactly what happened to Yatim between the time he entered the subway station to the time he boarded a westbound TTC streetcar from Dundas station at around 11:45 p.m. What we do know, however, is that by 11:56 p.m., all the passengers on board that streetcar fled "in terror after [he] exposed himself, drew a knife and slashed at—but did not touch—a woman sitting opposite him" (Hasham). In the seconds following this incident, after the driver and all the passengers had escaped without injury, Yatim refused to leave the empty streetcar.

Within moments, TPS officers surrounded the streetcar with their service pistols drawn. Yatim walked towards the front of the streetcar and stood near the open doors. Forcillo demanded numerous times that Yatim drop his knife and warned him that if he took another step forward, he would be shot (Hasham). As the TTC streetcar video surveillance shows, Yatim takes two steps forward and, despite not descending the streetcar steps or lunging forward in any threatening way, he is shot by Forcillo three

times. The autopsy results revealed that one of these three bullets fatally struck Yatim in the heart, while the other two severed his spine and fractured his right arm (Hasham). With Yatim incapacitated on the streetcar floor, still grasping the knife, videos show Forcillo fire an additional six gunshots at Yatim only five and a half seconds later, five of which struck him in the lower body (Hasham).

On 25 January 2016, Forcillo was found guilty of attempted murder. While the jury ruled that Forcillo was justified in firing the first three gunshots, they interpreted his second volley of six gunshots as intent to kill, since Yatim was already fatally wounded and incapacitated, no longer posing a serious threat (Bell). Toxicologist Inger Bugyra testified that at the time of Yatim's death, his blood had a "'moderate to moderately high concentration'" of ecstasy (qtd. in Mehta) and trace amounts of "marijuana and a derivative or 'metabolite' of cocaine in his system" (Mehta). While Bugrya also testified that the consumption of ecstasy can lead to "agitation, nervousness, [and] aggression," as well as impulsivity amongst other side effects, it was impossible to determine whether or not the drugs in Yatim's system were the impetus for his actions on the night of his death (Mehta). Although speculation of substance abuse and mental illness surfaced and made its rounds in the media shortly after his death, Yatim's family issued a statement in which they denied that he had any substance abuse problems or mental health issues (Alamenciak and Ghafour), a significant statement considering that substance abuse and mental health are often cited in statistics and incidences of fatal police shootings across Canada.

The interim report published by the Ontario Human Rights Commission (OHRC) in November 2018, which includes a report by Scot Wortley from the University of Toronto's Centre for Criminology and Sociolegal Studies, paints a much clearer picture of fatal police encounters in Toronto. In this report, the majority of fatal police encounters involving the TPS centre around the policing of race. By tracking fatal police encounters involving the TPS from 2013 to 2017, Wortley's findings demonstrate that although Black people only account for about nine per cent of Toronto's population ("A Collective" 89), they make up about thirty-six per cent of police shootings; about sixty-two per cent of police use of force cases that resulted in death; and seventy per cent of police shootings that directly resulted in death (19). In stark contrast to the national statistics analyzed by the team of CBC researchers, the OHRC report reveals that nearly seventy per cent of civilians involved in TPS encounters of use of force, regardless of race, did not suffer from any mental health issues (20).[24]

The OHRC report raises concerns about overrepresentation that have long affected Black communities in Toronto. From 2000 to 2006, Wortley observes that Black people were involved in about fifty-four per cent of TPS shooting cases and forty-seven per cent of use of force cases that resulted in death, despite only representing about eight per cent of Toronto's population at the time (90). Amongst many of the important questions that arise as a result of Yatim's fatal shooting is the following question: given the statistical evidence of the overrepresentation of Black people involved in violent police encounters

[24] Sixty-seven per cent of these victims were also unarmed.

from 2000 to 2006 and from 2013 to 2017, why did the Yatim shooting spark calls for police BWCs in Toronto and across Canada?

Part of the answer to this question may be found in the critical roles that digital technology, the Internet and YouTube played at the time of the shooting. YouTube officially launched their platform in late 2005, but it was not until mid-2007 that it began to gain global traction, the same year that YouTube launched their mobile site and app (Jackson). This also corresponded with the launch of the first generation of iPhones in June 2007, which included YouTube as a default app as part of the iOS mobile operating system. YouTube and iPhone users were now equipped with connected mobile phones that allowed them to record, upload, view, share and disseminate videos easily and at speeds that were previously unavailable to the general public. Despite the introduction of the first generation iPhone and YouTube as a default app in 2007, it was not until 2013—the year Yatim was shot and killed—that smartphones really began to gain traction worldwide. While roughly 122 million smartphones were sold in 2007, nearly one billion were sold in 2013 (O'Dea, 2020), making them, their apps and the Internet far more accessible than in years prior. The Yatim shooting that was recorded by Baron on his iPhone and uploaded to YouTube has close to 700,000 views. Other uploads of the Yatim shooting from YouTube users such as TheEditPlayer and Markus Grupp have over 1 million views and over 780,000 views, respectively.

Of the many TPS police shootings that resulted in the deaths of unarmed Black people in Toronto prior to the Yatim shooting, none were captured on civilian mobile

phone cameras or uploaded to YouTube. The only other civilian footage we have of a fatal shooting by the TPS prior to Yatim is the death of Anthony Kevin Murray at the Caribbean Carnival in 2011, captured on a video camera by bystanders (Morrow). While the footage was used by the TPS as an investigative tool, it was not made available to the public through any readily accessible platform. What made the Yatim shooting so egregious to the general public, apart from other complex issues that include race, age, ethnicity and questions of police use of force, was the traction and attention it received online through social media. Baron's act of sousveillance framed the shooting according to the actions and responses of the police rather than Yatim. In contrast to more traditional forms of top-down, video surveillance that is procured through technologies such as CCTV, police dashboard cameras or, in this case, TTC surveillance cameras, Baron's mobile camera footage and subsequent upload to YouTube demonstrated the power of sousveillance in the emerging age of information.

Baron and others revealed how the traditional tools of the watchers or the "social controllers" can be appropriated by civilians "to observe the organizational observer[s]" (Mann et al. 333). As Mann et al. argue, surveillance is organizational in the sense that organizations have made surveillance technology "mundane and invisible through its disappearance into the fabric of buildings, objects and bodies" (332). In other words, part of the functionality of organizational surveillance rests in its Foucauldian and panoptic capacity to observe civilians without being observed. Sousveillance, on the other hand, makes itself more visible by shifting the power of organizational surveillance into

the hands and bodies of civilians. By using some of the same camera technology that is deployed by organizational surveillance and law enforcement agencies, civilians are not only granted the power to observe those who are traditionally unobserved, they can use digital technologies and the affordances of social media platforms to make others immediately aware of what they have observed.

Shortly after the Yatim shooting, one of the dominant narratives that surfaced and circulated was the need for more police transparency and accountability. In the policing and public safety context, this narrative evolved into the need for more police transparency and accountability through more top-down surveillance in the form of police BWCs. On 28 August 2013, Blair concluded that "[i]n light of the fatal shooting of Sammy Yatim on July 27, 2013…he had a responsibility to cause a review to be conducted as required by…the Ontario *Police Services Act*" (Iacobucci 44). Blair approached Iacobucci who agreed to conduct an independent review of the use of lethal force deployed by the TPS (44). In his review entitled "Police Encounters with People in Crisis," Iacobucci notes that although the review was commissioned as a result of the Yatim shooting, it "does not address the circumstances specific to that particular event" (171). More perplexing, however, is that while there was no substantive evidence to suggest that Yatim was a person in crisis, defined within the report as "a person who suffers a temporary breakdown of coping skills but often reaches out for help, demonstrating that they are in touch with reality" (Appendix E, 3), the report was nonetheless initiated and commissioned in direct response to the Yatim shooting.

Of the eighty-four recommendations made by Iacobucci, recommendation seventy-two states that, "[t]he TPS issue body-worn cameras to all officers who may encounter people in crisis to ensure greater accountability and transparency for all concerned" (263). His review uses one of the most commonly cited studies of police BWCs from 2012 out of Rialto, California, a pilot project that claimed a reduction in public complaints against police officers equipped with BWCs, as well as a reduction in use of force incidents reported by police wearing BWCs (257). In contrast to Iacobucci's review and recommendations, the Rialto study was not a response to police use of force with persons in crisis. Furthermore, the seeming success of the Rialto study has been repeatedly challenged by other prominent scholarly studies (Ariel et al., 2017), including one conducted by David Yokum et al. in Washington, D.C., from 2015 to 2016. In a randomized control study of 2,224 Metropolitan Police Department officers, Yokum et al. did not detect "statistically significant effects" or "dramatic reductions in use of force or complaints" from the use of BWC technology (22). Given more recent scholarly studies regarding the ineffectiveness of BWCs as surveillance technologies that reduce use of force incidents or public complaints, why do law enforcement agencies like the TPS continue to pursue them?

The 2015 TPS Pilot Project: Transparency, Accountability and Challenges

The TPS officially began their first in-field BWC pilot project on 18 May 2015 and concluded it on 31 March 2016. They used two different BWC models: the Panasonic

MK2 and the Reveal RS2. In terms of design, the two cameras were technically quite similar with the only notable difference being that the Reveal RS2 was equipped with an "outward-facing LED screen that allowed the public to view themselves being recorded," whereas the Panasonic MK2 was not (Whynot et al. 58). Besides that, both models were relatively light, durable and waterproof (Yuen) with similar battery life problems, the latter of which proved to be one of the most difficult technical and operational challenges encountered by officers in the pilot project (Whynot et al. 59). The BWCs automatically uploaded their video content once they were placed back onto their docking stations at their respective police stations, and officers had the opportunity to view and classify the recorded content (58).

Usually worn near the top or middle of on officer's bulletproof vest or police jacket, officers were instructed to activate their BWCs "as soon as reasonably possible, prior to arriving at a call for service or at the decision to initiate any investigative contact" (14). While this may have reduced the frequency with which the general public was captured on BWC video—an important point to consider when thinking about the general public's right to privacy—it provided officers with operational discretion. For example, participating officers "were given to understand that an investigative contact included asking a member of the public for personal identifiers or to explain why they were at a particular address or location [known more generally as carding]" (14). However, since this practice often occurred at an officer's discretion and outside the formal and traceable parameters of calls for service or assistance, there was no concrete way of determining

whether or not officers complied with this informal understanding. Since BWCs could be activated according to an officer's discretion, the framing of any incident obtained through BWC video footage would have to be considered as partially subjective.

According to the TPS, the purpose of the pilot project was to "explor[e] the benefits, challenges, and issues surrounding the use of body-worn cameras by officers, and the feasibility of adopting the cameras for regular use" (6). Some of the fiduciary goals of the pilot project included enhancing public safety, officer safety, public trust and police legitimacy; protecting officers from unwarranted accusations by the public of officer misconduct; and providing audio-visual evidence for enhanced investigation, judicial and oversight purposes (6). The project equipped a total of eighty-five TPS officers with BWCs from 43 Division Community Response; 55 Division Primary Response; Traffic Services Motor Squad and the Tavis (Toronto Anti-Violence Intervention Strategy) Rapid Response Blue Team 2, the latter of which was eventually disbanded in 2017 "amid criticism for its high rate of carding in heavily policed communities" (White, "Doug"). Unlike the findings concluded by the Rialto study, the findings in the TPS report on BWCs were far more inconclusive and in line with more recent scholarly findings regarding BWCs.

The TPS report found that overall community support for the pilot project was "extremely strong" (2). In fact, community support appeared to be stronger than that of participating officers. By January 2016, neighbourhood surveys administered by the TPS revealed that ninety-four per cent of community members in 43 and 55 Divisions

supported or strongly supported the use of BWCs (49); however, the response rate to the community survey was extremely low. Of the total of 45,000 surveys sent out by the TPS, only 7,540 were completed and returned, resulting in a response rate of only seventeen per cent (48). On the other hand, only fifty-eight per cent of TPS officers equipped with BWCs supported or strongly supported the program by the end of the study (32). Some officers claimed that BWCs "made them feel safer and more confident while dealing with the public, while others said [they] didn't make any difference" (28). Although public complaints against BWC officers remained quite low, as did complaints against the comparison group of officers without BWCs, there was a "slightly higher rate of public complaints" against officers with BWCs (29). By the end of the pilot project, sixty per cent of officers believed that BWCs altered the behaviour of community members, reducing the likelihood of false complaints and aggressive confrontations (33). At the same time, ninety per cent of participating officers also indicated that community members were less likely to share information with BWC officers (33).

Instead of the dramatic reduction of complaints and violence against civilians and officers cited in the Rialto study, the TPS pilot project reveals otherwise. It demonstrates that while there was a reduction in the number of use of force reports filed by BWC officers, in contrast to the comparison group, the number of incidents that involved injuries to civilians that required medical attention increased by seven per cent (31). Furthermore, the number of injured on duty reports filed by BWC officers also increased,

signaling that physical assaults of officers with BWCs were also more common than the comparison group (25).

The report also makes note of the project's inability to demonstrate that BWCs have any "value, or lack thereof, for police accountability and public trust" (68). Ultimately, the major stumbling block for the adoption of BWCs cited in the report is not the (in)effectiveness of the technology, but the financial constraints of creating and sustaining the required administrative and technological infrastructure. As the report points out, "[w]hile the pilot itself was not a major expense, projected costs of staffing, technology, and storage requirements would be about $20 million in the first year of implementation, with a total 5-year estimated cost of roughly $51 million" (68). In order to be more conclusive about the consequential effects that BWCs have on the community and on police officers, the report calls for more long-term funding (68). But the notion that more data and funding are required before any conclusive recommendations can be made implies a failure in the objectives and government funding that were initially set aside for the project. The report does arrive at one conclusion, stating that BWCs "provide an unbiased account of interactions between the police and members of the community" (68). Yet, when we consider the officer discretion involved in activating BWCs, as well as the overrepresentation of Black people involved in violent police encounters, then how unbiased are the audio-visual data that are generated by BWCs?

Unlike the lack of concrete recommendations put forth by the TPS report, the key recommendation submitted by the BWC pilot project taken on by the Edmonton Police

Service from 2011 to 2014, states that they would monitor the BWC testing programs of other police services in Canada and wait before they further invested in BWCs (89). Similarly, the final recommendation made by the chief of the Halifax Regional Police regarding their BWC pilot project was not to adopt the technology because of its excessive costs (Gillis). The Hamilton Police Service dismissed BWCs based on research that demonstrated the technology had not yet proven its worth (Gillis). This, of course, does not suggest that all the findings in the TPS report are not valuable simply because they do not make any conclusive recommendations. The findings do point out several problems with the adoption of BWCs, a number of which deal with technology-based issues and increased administrative workloads (Whynot et al. 67). Yet, the report's claim that more data and funding are required before any conclusive recommendations can be made does not guarantee that any future pilot projects would yield any significantly different results. More importantly, the TPS report overlooks many of the concerns that BWCs will raise, including assertions that they offer objective accounts of civilian-police encounters without intensifying existing racialized knowledges and discriminatory policing practices, which are deeply embedded in the institution of policing.

Even before Mayor John Tory and the TPS Board announced their decision to equip officers with 2,350 BWCs in 2020 and beyond, the TPS had already begun searching for another BWC supplier (Gillis) without government funding. According to TPS Inspector Mike Barsky, the TPS was already conducting another evaluation of BWCs following their initial pilot project in a bid to equip all front-line officers with the

technology, citing the rapid advancements in BWCs since the completion of their pilot project in 2016 (Gillis). The TPS believed that the initial costs associated with BWCs "could potentially be cut in half, in part due to innovations in cloud storage, which is far more cost efficient but wasn't examined as an option during the pilot project" (Gillis). The main issues that reemerge in the adoption of this new BWC program are once again rooted in cost-effectiveness and time-saving measures rather than in a serious analysis of the potential social and racial implications.

In the search for finding a new BWC supplier, the TPS followed the lead of the Calgary Police Service (CPS). In July 2018, the CPS announced that it had chosen Axon Public Safety Canada as its BWC supplier, in efforts to equip about 1,100 frontline officers with BWCs by the middle of 2019 (White, "CPS"). This partnership and that of the TPS reflects the significance of the alliance established in 2016 between Axon Public Safety Canada and the Canadian Centre of Public Safety Excellence (CCPSE). Formerly known as TASER International, Axon is considered to be the "global leader in digital evidence management solutions with the leading body-worn camera" ("Axon Public"). Stationed out of Charlottetown, Prince Edward Island, Axon Canada and the CCPSE partnered to build a training centre that "combines skill-based competencies and academically sound curriculum, deliver[ing] the most up-to-date training to law enforcement and public safety officials" ("Axon Public"). Along with providing the CCSPE with access to Axon's line of BWCs, the partnership also gives the CCPSE access to the Evidence.com platform, a Canadian cloud-based, digital evidence management

system ("Axon Public"). This platform has proven to be indispensable with the announcement that most of the thirty million dollars set aside for the new TPS BWC program is "earmarked for cloud-based storage space for the hundreds of hours of video that will be generated by the cameras on a daily basis" (Chidley-Hill).

As the 2015-2016 TPS pilot project revealed, the main financial challenge it faced in recommending the widespread adoption of BWCs was the projected costs associated with storage requirements (Whynot et al. 68). As a way of alleviating these costs, the Evidence.com platform that was built by a team of Axon engineers "is a tool for managing digital evidence from capture to courtroom…designed to ingest, process, and store evidence files in the cloud" ("Beyond CJIS" 3). Equally important in the relationship with Axon, beyond the potential cost-saving measures of data storage taken on by Axon's own Evidence.com platform, is that law enforcement agencies can retain ownership of all their data, while, simultaneously reducing their vulnerability to data breeches (3). With the existing partnership between Axon and the CCPSE, the decisions of the CPS and the TPS to use Axon as their supplier of BWCs and as their solution to the projected costs of administrative workload, data storage and technical support (Whynot et al. 68), Axon has emerged as the frontrunner for other Canadian law enforcement agencies in search of adopting BWCs. This is already the case in the US, where sixty-two per cent of major city law enforcement agencies have already purchased Axon BWCs and/or its digital data storage platform ("Axon Press Room").

The partnership with Axon demonstrates that the use of BWCs extends beyond the calls for more police transparency and accountability. Besides cost-effectiveness, Les Kaminski, president of the CPS, provides important insight as to why BWCs are instrumental for law enforcement agencies. As Kaminski argues, "'[b]ody cameras are essential'" because they bring a "'perspective from a police officer's point of view into the equation. Instead of just a little bit portion of it from someone's telephone camera'" (qtd. in Laing and Rumbolt). Kaminski goes on to suggest that while BWCs "'don't tell the entire story…they give more of the story'" (qtd. in Laing and Rumbolt). Through this perspective, we begin to see a re-orientation of which technologies constitute partial and impartial forms of surveillance and sousveillance.

For Kaminsky, the narrative offered by mobile phone cameras is clearly one that is less complete, valuable and reliable than the narrative offered by police BWCs. Kaminsky devalues civilian, mobile phone cameras as impartial technologies of sousveillance or counter-surveillance. Rather than view mobile phone cameras as devices that "enhanc[e] the ability of people to access and collect data about their surveillance and to neutralize surveillance" (Mann et al. 333), Kaminsky's depiction of mobile phone cameras limits their application to a supporting role, filling in the more objective and reliable police narrative provided by police BWCs. In this sense, by championing BWCs as more authentic tools of top-down surveillance, BWCs counter the counter-surveillance capacities of civilian mobile phone cameras, divesting them of their value as tools of sousveillance.

Cop Watching, Dark Sousveillance and Race-based Digital Labour

For Black and other marginalized people and communities, the history of keeping tabs on the police or what Brucato calls "cop watching" (48), was borne out of necessity. As Kideste Mariam and Wilder Bonner observe, the precursor to modern policing evolved from the tradition of policing race by American slave patrols in the South during the late seventeenth century (127). These slave patrols were made up of mostly white volunteers who set out to control and regulate "the movement of slaves…beyond the boundaries of plantations" (159). With the passing of the Fugitive Slave Act of 1850, slave patrols were granted "virtually unlimited coercive authority in their charge to monitor the movement of slaves and track down runaways…[and] had the authority to physically punish runaway slaves" (159). However, with the end of slavery shortly thereafter and the ensuing economic depression that hit the South in the 1890s, "[w]hite solidarity was viewed as essential for the continued economic dominance of the white population" (160). From 1896 onwards, the police in the US became the main apparatus by which Jim Crow laws were enforced. As a result, the police were seen by most Black people "as agents of a repressive social order" (128). Sandra Bass notes that, as agents who upheld a legal, formal and informal social order that was premised on white supremacist ideology, police brutality became a means through which insubordination, suspected criminals and Black people were punished and kept in their respective places (161).

By the mid-1910s, racial segregation in the US was aggressively followed by measures of spatial social control and segregation (162). As a public service that was spatially deployed, the differential policing of racially segregated zones "created cognitive boundaries that defined those 'places' that were relegated to racial minorities and those that were not" (163). These forms of social control and racial-spatial segregation also occurred in Canada, where formal and informal segregation of Black communities was one strategy Canada deployed to maintain white dominance after the end of slavery (Maynard 33). As a matter of fact, the abolition of slavery had little impact on the end of racism in Canada (Hogarth and Fletcher 10). As Kathy Hogarth and Wendy L. Fletcher contend,

> [t]he abolishment of slavery was followed by more than 100 years of legalized segregation with the 'Common School Act' of 1850 enshrining segregated schools and classrooms, the segregated combat units in armed forces, and segregated public spaces that disallowed for commingling of Blacks and Whites. (10)

To this, Maynard adds that all Black people were "subject to a veiled Jim-Crow style segregation that either formally or informally kept Black persons in social, economic and political subjugation" (33), including access to government supports, education and employment. While many of these institutions and policies controlled and even prevented the social and economic mobility of Black people, residential segregation restricted their spatial mobility. The presumed "pathological sexuality" that threatened white settlers in

Canada, made Black men and women targets of anti-Black hysteria in the media, in public opinion and in public spaces (41).

As far back as 1868, anti-Black hysteria was woven into the fabric of Canadian society when Prime Minister John A. Macdonald threatened the use of lynch mobs and the death penalty for Black men, in what he considered to be the "'frequency of rape committed by Negroes'" against white women (qtd. in Maynard 41). Years later, in a widely publicized case in 1911, a white teenage girl named Hazel Huff in Edmonton, Alberta, accused an innocent "Black man of breaking into her home, stealing a diamond ring and drugging and assaulting her" (42). Although Huff later confessed to police that her story was entirely fabricated, the police withheld her confession from the public, which not only led to the near lynching of an innocent Black man, but resulted in the passing of a resolution that eventually banned all Black people from the city of Edmonton (42). The anti-Black hysteria that equated blackness with criminality in Canada was accompanied by anti-Black policies and state practices, enforced and reinforced by the deep-seated white supremacist ideology of the police and the white settler state (42).

These pathological understandings of blackness allowed the police to use existing laws, specifically those around drugs and prostitution, to legitimize their control and over-surveillance of Black men and women in public spaces (46). These laws enabled the police to arrest and incarcerate Black people at immensely disproportionate rates (46, 48). Unfortunately, these perceptions of blackness and the policing of space and race—or space as race—have not abated over time. Evident with Wortley's findings in the OHRC

report, the racial profiling and over-policing of Black people and communities continues, as do the disproportionate rates of violent and deadly encounters with police ("A Collective" 12, 19). What has changed over time are the ways in which resistance to race-based policing have evolved. The use of mobile phone cameras have allowed Black people to partially traverse the segregated spaces of confinement and the racial-spatial boundaries in which acts of discriminatory policing occur, engaging in both cop watching and acts of dark sousveillance.

The digital and race-based labour that is entailed in cop watching but, more predominantly, in dark sousveillance, is inherently connected to trauma. Acts of police violence and deadly police-civilian encounters "are so pervasive, they inflict a unique harm on viewers, particularly African Americans, who see themselves and those they love in these fatal encounters" (Gregory). The same can be inferred for Black people in Canada for whom "this recognition becomes a form of violence in and of itself" (Gregory). The trauma extends from the individual(s) experiencing, recording or witnessing violent or fatal police encounters, to those who subsequently view and witness the recording through a digital medium, and most often through a social media platform (Dubberley et al.). In this digitally-mediated, race-based trauma, viewing such images or videos can induce "stress, fear, frustration, anger, and anxiety…[and] preliminary evidence suggest[s] that these images could lead to a cascading series of physical ailments, including eating and sleeping disorders, high blood pressure, and heart problems" (Gregory). Furthermore, race-based trauma reinforces the racist and

discriminatory history of policing Black populations in the US and in Canada. For Black viewers, not only do such images and videos "impart a sense of fear and dread" of the police, Monnica Williams argues that the constant stream of digitally-captured police violence against Black people reminds them of the "'cheapness of black life'" (qtd. in Gregory). The necessity to resist and make known the long-standing and disproportionate police violence against Black people and communities using mobile camera phones, clearly involves substantial risk and trauma for the bodies directly and indirectly involved in bearing witness to police violence.

Acts of cop watching and dark sousveillance both involve aspects of what Stuart Allen calls "citizen journalism" (16). Allen defines this newer genre of reporting as "first-person reportage in which ordinary individuals temporarily adopt the role of a journalist in order to participate in newsmaking, often spontaneously during a time of crisis, accident, tragedy or disaster when they happen to be present on scene" (16). These acts are also largely defined by the way in which they are captured and disseminated as news. While Allen's definition includes contributions made by first-person eyewitness accounts, they are more recently and prominently comprised of first-person accounts that are captured as "audio recordings, video footage, mobile or cell phone and digital camera photographs…[and] typically shared online via email or through bulletin-boards, blogs, wikis, personal webpages and social networking sites" (16). Whereas widespread circulation is a necessary component of more traditional news reporting mediums, citizen journalism requires that an individual not only bear witness to a potential newsworthy

event, but that the individual takes on the work of putting the event into circulation so it has a chance of becoming newsworthy.

For instance, the Yatim shooting would have not likely garnered the national media attention it did—as quickly as it did—without the traumatic and digital labour of citizens like Baron and others. The same can be said of the many police shootings of unarmed Black men in the US, including the shooting of seventeen year-old Antwon Rose on 19 June 2018. Shauny Mary recorded the shooting of Rose on her mobile phone and then uploaded it to Facebook. Her recording captures the footage of Rose being shot in the back multiple times by East Pittsburgh police officers as he flees an arrest. Mary's traumatic witnessing and digital labour is one major contributing factor that led to the days of public protest that followed the shooting (Duster), including the rare and criminal charge of homicide that was subsequently laid against officer Michael Rosfeld (Wang and Horton).

Similarly, on 26 May 2020, Darnella Frazier, a young Black woman, uploaded her mobile phone footage of the killing of George Floyd to Facebook—the death of yet another unarmed Black man at the hands of police. The viral video of Floyd's death at the hands of Minneapolis Police Department (MPD) officers, who responded to a call of a man using a fake twenty-dollar bill at a convenience store, shows Floyd handcuffed and pinned under a white officer's knee while repeatedly yelling, "I can't breathe" (Shammas). Her mobile phone footage and upload to Facebook led to community outage, widespread protests, the firing and charges brought against the MPD

officers involved, and a Federal Bureau of Investigation civil rights inquest (Burch and Eligon). For Frazier, not only was the physical and digital act of recording the footage physically dangerous by putting herself in close proximity to the arrest, the experience itself has also left her traumatized and vulnerable to online harassment (Stunson).

According to Kari Andén-Papadopoulos, the mobile camera phone has become central to what she describes as the "citizen-camera witness" (754). In a departure from Allen's citizen journalism, the citizen-camera witness partakes in "the ritualized employment of the mobile camera as a personal witnessing device to provide a public record of embodied actions of political dissent for the purpose of persuasion" (756). The process involved in making personal witnessing a public record with politically-motivated intentions, is one that requires an extensive amount of labour on behalf of the citizen-camera witness. The camera-wielding citizen puts "their li[fe] at risk to produce incontrovertible public testimony to unjust and disastrous developments around the world" (754). Under these circumstances, the labour of producing digitally-generated content through social media platforms such as YouTube, Facebook and Twitter, puts the bodies and lives of the citizen-camera witness in clear danger. Only by taking on the bodily and digital labour can the citizen-camera witness participate in "contemporary political struggles, allowing for previously disenfranchised forces to take on an important role in the production and contestation of geopolitical power" (755).

Andén-Papadopoulos' notion of the citizen-camera witness runs into some difficulties as she makes a critical distinction "between mundane acts of recording (more

or less) banal moments of our daily lives and the embodied risk of filming as resistance to brutal oppression" (756). She argues that the former act of eyewitnessing "does not necessarily attempt to communicate anything," whereas the latter "responds to a crisis by performing an act of bearing witness that appeals to an audience" (756). Andén-Papadopoulos' dismissal of mundane acts of recording as acts that embody less risk than filming as resistance to oppression has some merit; yet, the embodied risk that she evokes is too one-dimensional. Her description of the camera-wielding political activist and dissident focuses on individuals "who put their lives at risk to produce incontrovertible public testimony to unjust and disastrous developments around the world" (754). While the embodied risk of citizen camera-witnessing in such circumstances and places around the world such as Egypt, Libya and Syria is irrefutable, Andén-Papadopoulos' use of terminology such as the "mundane" or the "banal moments of our daily lives" (756), overlooks the ways that such rhetoric is heavily embroiled in subjectivities that are influenced by differences in race, ethnicity, religion, gender, class and ability. In fact, what may constitute the mundane or the banal moments of everyday life for one individual, may very well constitute embodied risk for another, particularly for people and groups engaged in everyday struggles for social justice.

For Andén-Papadopoulos, the mobile camera phone "provides citizens with a powerful means for bearing witness to brutality, allowing for the creation and instant sharing of persuasive personalized eyewitness records with mobile and globalized target populations" (760). As Andén-Papadopoulos suggests, the mobile camera phone can be

an instrument of democratization; however, little to no attention is given to the actual labour that is required for citizen-camera witnessing. The physical, traumatic and digital labour that go into these acts of everyday living and witnessing, specifically with those involved in police killings of unarmed Black people, are often omitted from dominant narratives of resistance. Whether we consider the police killings of Rose, Floyd, Walter Scott, Philando Castile or Eric Garner, the narratives that emerge often engage with the racial dynamics involved in these deaths without engaging in the race-based digital labour of citizen-camera witnessing.

Brucato argues that mobile camera phones give all citizens the power "to prevent police violence from being used against other community members or oneself" (48). Although he suggests that the visibility of camera phones works to prevent police violence, borrowing from Jeremy Bentham's panoptic "claim that behavior improves when people are strictly observed" (48), we know that civilian mobile phone cameras do not alter or deter police behaviour or misconduct (Ariel et al., 2016; Ariel et al., 2017; Yokum et al., 2017). Despite this, Brucato explains that cop watching through mobile camera phones is largely motivated by the ideal of transparency; that is, by the ideal of "making policing more visible" (48). In addition to making policing and police violence more visible, violent civilian-police encounters captured by mobile camera phones tend to "most often depict Blacks being brutalized, often by white officers, and this squares with long-established patterns in police outcomes" (51). Brought on by the state's racist and discriminatory history and culture of policing and surveillance, this tension is negotiated

on the ground and on an everyday basis by the very people and communities the police target, not simply out of their fears and anxieties but also out of their defiance and outrage (Maira 81). Thus, while the labour of cop watching is mostly a by-product of the over-policing and over-surveillance of Black people and communities, it is simultaneously marked by an overrepresentation of free and digital Black labour. The same can be said about the labour that goes into dark sousveillance, acts that confront the histories and contemporary practices of racialized surveillance by framing them in ways that can be made known (Browne 24).

On 25 January 2017, Waseem Khan captured video on his mobile phone of TPS officers taking down a Black man who, while being pinned down by some officers, was also repeatedly stomped and tasered by other officers (Seputis). Although Khan did not obstruct the arrest, he was ordered and threatened by TPS officers to stop recording the incident on his mobile phone. As his video footage reveals, one officer tells Khan that "'the suspect is 'going to spit in [his] face and [that he is] going to get AIDS'" (qtd. in Rieti). Seconds later, the same officer threatens Khan by unlawfully demanding that he stop recording the incident before his mobile phone is seized as evidence (Rieti). A second officer then echoes a similar threat, informing Khan that as a witness, his phone will need to be seized (Rieti). The physical and digital labour of witnessing and recording police violence can turn a racialized witness into a potential victim of police violence. Although Khan professes to knowing that police could not legally seize his phone, he followed their demands, stopped recording the incident and crossed the street out of fear

that he might lose any existing footage (Rieti). As Maynard writes, Khan's actions follow a "deeply ingrained fear of law enforcement officers [as] a rational response to the brutal reality that black lives are taken too often by law enforcement and that these killings go largely unpunished" (103). Khan's recording was precipitated by the outrage he felt in witnessing an unarmed Black man being brutally beaten by police, fearing that another Black life was going to be taken since the man, according to Khan, "'looked completely unresponsive'" and "'wasn't resisting'" (qtd. in Seputis). In turn, his decision to stop recording the incident was driven by a long history of race-based police violence in which verbal threats have often turned into physical violence and fatalities, particularly for Black people.

Selwyn Peter, Khan's lawyer, explains that Khan's recording was essential in bringing about written policy changes to how the TPS deal with citizens recording civilian-police encounters (Seputis). Peter took on the case pro bono because he believed "'Khan's case represented something that we want citizens to do especially when persons from racialized communities or persons in lower income communities…are being either brutalized or being treated badly by the police'" (qtd. in Seputis). Unlike the spontaneity that accompanies acts of citizen journalism or citizen-camera witnessing, the racialized labour entailed in cop watching or dark sousveillance for Black people is propelled by "a form of state violence that is particularly chilling" (Maynard 90). While the mobile phone can function as a tool of communication and democratization, it is often called upon and put into use during police-civilian encounters out of outrage and/or a fear of violence or

death. Thus, the mobile camera phone has become the primary medium through which the racialized labour of cop watching and dark sousveillance makes the police and race-based police violence more visible, although certainly not more transparent or accountable.

The brunt of this racialized labour is usually taken on by people of colour who have long been targeted by the police and made to "forever feel like cultural outsiders" (Hogarth and Fletcher 21). For Black people, the mere occupation of public space has always been immensely precarious (21), making the work of cop watching and dark sousveillance inherently unpredictable and dangerous. In a bid to combat these histories and contemporary modes of violent and discriminatory policing, Black citizens have been unfairly burdened with proving their truth claims and their belonging to nations that have historically written them out. Even with cop watching and dark sousveillance, which have brought numerous social injustices to light, racist and discriminatory policing policies and tactics continue. Hogarth and Fletcher explain that, "racism and anti-racism are positions of hypervigilance that do not readily allow for the racialized Other to comfortably occupy the space they occupy, thereby heightening a sense of unbelonging" (22). While multiple forms of activism and resistance are certainly necessary in raising awareness and fighting against systemic violence and social injustice, "alone [they do] not create a safe and comfortable space for belonging and becoming" (22).

In Canada, the trauma that Black and other marginalized citizens are made to endure as a mere consequence of belonging and becoming in public space, stems from a

history and pattern of violence against racialized people. As Sunera Thobani observes, "[c]itizenship, as the quintessential hallmark of liberal democracy, was [] racialized from its very importation into the country" (82). Legal citizenship and status in Canada only applied to British subjects who resided or immigrated to Canada up until about the mid-twentieth century (81). This form of systemic violence was most apparent with the ways in which Indigenous peoples, socio-political systems and ways of knowing, learning and being, were effectively deemed not to exist (82). In short, Canadian citizenship emerged out of an assault on Indigenous peoples that aimed at "their cultural and political elimination" (82).

The state's complicity in historically creating and sustaining racialized, hypervigilant citizens, has prompted many of these citizens to turn to the more accessible and expeditious nature of digital activism and resistance through social media platforms. Sunaina Maira suggests that there is some awareness and cautiousness with social media platforms as intermediaries of state surveillance, or as "*excessive* knowledge production of surveillance by and about those who are targets" (92). Maira observes that some activist groups have turned to face-to-face encounters in order to discuss sensitive topics (92). Even with this sense of awareness, however, social media platforms continue to serve as the primary means of mobilizing and shaping public opinion for social movements and activist groups (Moyer). Statistics from the Pew Research Center indicate that this trend is likely to continue with more than two-thirds of all Canadians and Americans using social media platforms (Poushter et al.).

As the labour of cop watching and dark sousveillance often becomes the responsibility of Black and other racialized people, they indirectly become associated with "neo-liberal forms of governance" (Andrejevic 482). In a risk society, the onus of responsibility "is placed on organizations and individuals to be more self-sufficient, to look after their own risk management needs" (Ericson and Haggerty, *Policing* 6). Mark Andrejevic explains this neoliberal form of governance through what he calls "lateral surveillance: not the top-down monitoring of employees by employers, citizens by the state, but rather the peer-to-peer surveillance of spouses, friends, and relatives" (481). While the subjects of surveillance are quite different for Andrejevic, the notion of "offloading duties of monitoring onto the populace" (482) resonates profoundly with the racialized labour of cop watching and dark sousveillance as a neoliberal form of (self-)governance. This labour often involves the use of mobile camera phones "as a means of taking responsibility for one's own security in [a] networked communication environment" (482). Top-down and organizational surveillance are not usually recognized by racialized communities as surveillance measures or technologies created for their protection. Instead, the opposite seems to hold true when we consider the history of state violence against racialized populations and, particularly, Indigenous and Black people. The over-surveillance of Indigenous and Black people poses more everyday risk and harm than it does good (Maynard 91-92). In order to protect themselves from those tasked with the responsibility to 'serve and protect' some citizens but not others, racialized

people are forced to take on the physical, emotional and digital labour of watching the watchers.

The Racial Inequalities of Prosumption

Acts of recording, uploading and disseminating audio-visual footage through social media platforms require different types of labour. Along with the bodily risk that is associated with cop watching and dark sousveillance, there is also an associated and immaterial risk embedded in digital labour. Maurizio Lazzarato conceptualizes and defines immaterial labour as "labour that produces the informational and cultural content of the commodity [and] refers to two different aspects of labor" (132.3). The first, in terms of the informational component of the commodity, is that it reflects the changes in the workplace, "where the skills involved in direct labor are increasingly skills involving cybernetics and computer control" (132.3). The second, with regards to the cultural component of the commodity, is that "immaterial labor involves a series of activities that are not normally recognized as 'work'—in other words, the kinds of activities involved in defining and fixing cultural and artistic standards, fashions, tastes, consumer norms, and, more strategically, public opinion" (132.3). We can view the digital component of the racialized labour of cop watching and dark sousveillance as extensions of immaterial labour. Although the actions of this racialized labour do not reflect changes in the workplace per se, the labour required to make police violence visible—and as efficiently and as far-reaching as possible—has shifted almost entirely to the Internet's networked

infrastructure. Secondly, the digital labour taken on by Black citizens involved in making police violence visible by sharing and disseminating it online and through social media platforms, is not typically considered labour that constitutes work worthy of remuneration.

Moreover, the invisibility of these forms of digital labour do not produce commodities that are consumed as part of the Marxian capitalist mode of production. In the data economy, the digital labourer is the commodity. As Lupton observes, there has been an important "shift from commodifying workers' bodily labour to profiting from information collected on people's behaviours, habits and preferences" (48). This type of labour can be further understood by what Lupton and others call "prosumption," a term that "denotes the ways in which people interacting with online technologies and other digital devices simultaneously consume and create digital content" (48; Ritzer and Jurgenson 14; Fuchs 297). The Black digital labour that is entailed in cop watching and dark sousveillance, created and consumed online and often through social media platforms, is also predicated on prosumption and prosumers for its efficiency and effectiveness. Videos of race-based police violence that are recorded and uploaded to social media platforms become part of a vast network of user-generated content. They allow other users to view, share, like or retweet the video footage, contributing to the digital labour of cop watching and dark sousveillance that makes social media platforms so vital to modes of digital activism and resistance.

As producers and consumers of online content, it is not the user-generated content that is commodified but the user-generated data—data that are "sold to advertising clients who, armed with information about potential consumption choices, provide users with personalized advertising that targets them in all of these everyday situations" (Fuchs 291). The constant tracking of personal data and online behaviour uses citizens' labour to classify them as consumers, "assess[ing] their interests in comparison to other consumers and in comparison to available advertising that are then targeted at the users" (304). As Christian Fuchs emphasizes, users who participate in the production and consumption of user-generated data, including cop watchers and those partaking in acts of dark sousveillance can "constitute an audience commodity that is sold to advertisers" (298). While user data obtained from prosumption offers more value than just that which is used by companies for targeted advertising, it partially explains why so many social media platforms and their associated apps are offered to users free of charge (Lupton 49).

What emerges in the online exchange between user-generated content and social media platforms is a paradox of race-based police violence and surveillance. On one hand, Black citizens and activist groups engaged in cop watching and dark sousveillance turn to the Internet and social media as a way of exposing organizational surveillance and everyday police violence. On the other, their efforts are subjected to the invisible violence of dataveillance. For José van Dijck, dataveillance stands apart from surveillance on account of its "continuous tracking of (meta)data for unstated preset purposes" (205). As such, the Internet is not the democratic space it appears to be (Noble 64, 170). Regardless

of the widespread belief that the Internet functions as a space "where people have the power to dynamically participate as equals, the Internet is in fact organized to the benefit of powerful elites, including corporations that can afford to purchase and redirect [web/ Google] searches to their own sites" (64). Rather than simply see the Internet and the Internet of Things (IoT) as part of a democratic system that enables modes of subverting or resisting the institution of policing, the Internet and the IoT must also be scrutinized for adhering to overarching "structures of domination" (Fuchs 305).

Fuchs espouses the idea that we think of digital labour and the prosumer as a contemporary manifestation of Karl Marx's proletariat, "who directly or indirectly produce[s] surplus value and [is] thereby exploited by capital" (297). In the case of the Internet, the IoT and social media, we can view digital labour as a means of producing a surplus of information capital. According to Fuchs, because "surplus value generating labour is an emergent property of capitalist production," the withdrawal of this form of labour would result in the break down of production and accumulation (298). When we apply this formula to the surplus-generating, digital labour of prosumers, we can imagine what would happen if those who generate and consume the digital content on social media platforms stopped doing so (298). The likely outcome would include a chain of cause and effect that would see the number of users drop, a sharp decrease or halt in the number of advertisers and a subsequent drop in profits for new media corporations that would result in bankruptcy (298). Yet, when we weigh the consequences of prosumption and dataveillance against the violent, racial and discriminatory policing tactics used in

public spaces, making police violence visible outweighs the invisibility of dataveillance, or what we might also refer to as 'data-violence.'

Since these structures of domination operate in the inconspicuous spaces of the digital data economy, "the exploitation and expropriation of the online commons of communication" (304) becomes less transparent to the typical users and consumers of digital content. The unlikelihood of a collapse or a bankruptcy of the major social media platforms suggests just how deep-seated these structures of domination have become in the everyday lives of the digital citizenry, regardless of race. The capacity to acquire user-generated data as "raw material for proprietary analyses" that could sell online advertising through algorithmic-based auction models (Zuboff, "Big Other" 79), makes clear how invisible but critical user data is to the emergence of information capitalism. By tapping into Internet-based "needs for self-expression, voice, influence, information, learning, empowerment, and connection" (79), information and surveillance capitalism establish themselves as indispensable components of everyday life, exploiting the surplus commodification of the 'datafied' self. The exploitative nature of prosumption, networked communication and online social interaction, becomes less visible by obscuring its exploitation and expropriation through "computer-mediated actions and utterances" of non-market activities (79), such as cop watching and dark sousveillance, both of which have become so vital to activism and social justice.

The advancements of surveillance and counter-surveillance technologies, including BWCs, mobile phones and other connected devices not discussed in this

chapter, contribute to a new logic of information accumulation that conceals the ways in which vast amounts of data are extracted, analyzed and sold on a minute to minute basis. The concealment promoted by this new logic of information accumulation has made surveillance capitalists realize that they are "protected by the inherent illegibility of the automated processes that they rule" (Zuboff, *The Age* 10). In the shift from the production-based capitalism of the twentieth century to the information-based capitalism of the present and the future ("Big Other" 77), to the computer-based information capitalism of the twenty-first century, all data including that which is obtained when videos are uploaded, viewed, shared or liked, make up data flows that are often referred to as "data exhaust" (79). By rhetorically redefining these immense data flows as data exhaust or "as waste material," the automated processes of data extraction and monetization appear to be less contestable to the general public (79). Still, as Safiya Umoja Noble points out, these "automated decision-making systems are disproportionately harmful to the most vulnerable and the least powerful, who have little ability to intervene in them" (65).

Through this viewpoint, we can begin to glean the racist and classist dimensions that are embedded in data exhaust and data extraction. While information and surveillance capitalism are indeed interconnected forms of (non)consensual, networked and invisible violence that affect most Internet users, racialized people who have been traditionally targeted by other forces of institutional violence and surveillance, continue to be deprived of their digital rights, freedoms and privacy in unprecedented ways. As victims and

targets of online, state and corporate surveillance, these users become more susceptible to the violence of having their digital information extracted and used in whichever way state, corporate and surveillance capitalists deem fit. Although the labour of cop watching and dark sousveillance illuminates histories of (in)visible state violence against predominantly Black citizens, they also increase other forms of invisible violence; namely, the violence of data consumption, analysis and predictive modelling.

The Rise of Data-Driven Policing

Police BWCs, mobile phones, the Internet are all heavily engaged in the production and expansion of societies of control by generating extensive flows of data that are weaponized against them. As Internet-based technologies are anchored to bodies in different ways, the endless data they produce are used by law enforcement agencies to digitize and implement carceral controls in private and public spaces. In other words, the data flows from these specific technologies allow the police to digitally weaponize themselves against civilian populations. Not only are certain physical spaces made carceral by discriminatory policing, over-surveillance and tactics of spatial confinement, digital space is also used as a way of continuing to expand the state's carceral apparatus through digitally-based societies and regimes of control.

Gilles Deleuze suggested that we view societal control mechanisms as new weapons of confinement, a shift from disciplinary societies to societies of control (4). Whereas disciplinary societies operate in "environments of enclosure" (4) that discipline

and re-discipline individuals through a scaffolded and institutional system of "*perpetual training*" (5), societies of control do not operate in spaces of enclosure, nor are they ever "finished with anything" (5). Rather than adhere to disciplinary models in which individuals encounter different but co-existing modes of discipline and confinement, societies of control exercise their power over individuals by not limiting modes of discipline and confinement to established carceral institutions (5). There is no better way of understanding how societies of control exert their limitless exercise of power and confinement over individuals than in the vastness of imperceptible digital space. As mechanisms of control become increasingly more reliant on digital technologies and data, disciplinary sites of enclosure find themselves in crises as the effects of "universal modulation" are exercised, licitly or illicitly, through computers and their data networks (7).

Like Deleuze, Ericson and Haggerty contend that police exert their influence and control over society in ways that go beyond the traditional understanding of policing. They argue that policing includes the coordination of "their activities with policing agents in all other institutions to provide a society-wide basis for risk management (governance) and security (guarantees against loss)" (*Policing* 3). The realization that police officers spend more time engaging in knowledge work rather than directly fighting crime (20), points to the influence that knowledge production and distribution between a complex web of institutions has on modern policing (22). What enables the police to navigate through the complex web of institutions in order to assess and manage different risks is

the way in which they make use of risk communication systems (4). Police are no longer required to abide by their own risk communication systems, situated primarily in crime-related data and technologies. Their means of assessing and managing risk are now shaped by the data that are collected "through the risk communications systems of other institutions," including health care, welfare, education and so on (5).

Furthermore, policing, risk assessment and societies of control are no longer only effectuated through the collection and analysis of data acquired through spatial or "territorial surveillance" of physical bodies (5). They are also implemented "at the extraterritorial level of abstract knowledge of risk" (5). By using communication systems that have steadily become more abstract in the way that information is accumulated, interpreted and shared, whether through technologies, databases or algorithms, the very concept of risk has also been abstracted. The relationship between police BWCs and mobile phone users should alter the way we think of policing and societies of control.

David Garland shows that policing and the field of crime control have always been linked to various modes of social control, "ordering activities of the authorities *and also* the activities of private actors and agencies as they go about their daily lives and ordinary routines" (6). Leaning on Garland's view of crime control, the relationship between police BWCs and mobile phone users can also be viewed as unintentionally collaborative. As Garland argues, formal institutions of control exert control over the social body through a mutual, surveillance-based relationship with the "informal social controls that are embedded in the everyday activities and interactions of civil society" (5).

Therefore, the use of everyday technologies such as mobile phones must also be framed within these newer, informal and "non-correctionalist" modes of crime control (103).

In Ontario and primarily with the TPS, one widely-recognized example of non-correctionalist crime control came to fruition through the province's carding policy. As far back as the 1950s, the TPS were provided with what used to be called "suspect cards," allowing them to document and share the personal information of citizens who, in most cases, had not been charged of any crimes ("The Skin"). The carding system and policy that evolved over time came to be known in the 2000s as the "208" card, "an index-card-sized document used as an investigative tool and, according to former Chief Bill Blair, a way to 'get to know' the neighbourhood" (Rankin). In 2010, after the *Toronto Star* obtained access to the data collected by the TPS though a freedom of information request that yielded years of data, their data analysis showed that Black people "account[ed] for three times as many contact cards" as others, despite only making up about eight per cent of the city's population (Rankin). Throughout Toronto's seventy-four police patrol zones, Black people were stopped and carded at disproportionately higher rates, and young Black men between the ages of fifteen and twenty-four were stopped and carded "2.5 times more than white males the same age" (Rankin).

Following 2005, or what became known as the 'year of the gun,' the TPS increased its frequency of carding (Rankin) in what appeared to be an attempt to establish racial connections between Black people and gun violence. By disproportionately collecting and compiling the personal data of Black individuals, the police not only

constructed race-based datasets to support their racist and discriminatory claims, policing agendas and policies, they also established a non-correctionalist form of crime control that has proven to be ineffective. In his independent review of street checks, Justice Michael H. Tulloch states that, carding is not the solution to gun crime and may, in fact, "exacerbate the problem" (104). Instead of working towards building positive relationships with Black and other marginalized people, communities and youth at-risk, carding creates even further rifts with law enforcement agencies. The chilling effects that this example of non-correctionalist crime control has on Black people in public spaces, creates a spatial policing of racialized bodies as well as the policing of race-based datafied bodies. Here, race serves as a means of controlling which bodies can freely occupy public spaces. It also serves as a means of controlling which bodies are used to (over)populate police databases and for what purposes.

It is in this way that we can understand BWCs and mobile phones as part of a non-correctionalist system of crime control. In the absence of police crime control measures that have been previously criticized or deemed unsuccessful, new ideas, programs and crime control initiatives have sprung up (104), including the widespread interest in police BWCs. While mobile phones generate a plethora of data that can be accessed by police

surveillance technologies such as Stingray tracking devices,[25] most individuals are not granted much or any access to the data or data exhaust that they themselves produce; nor do they often have a say as to how their data are used. By privileging law enforcement agencies, corporate or even third-party entities with more access to the volumes of civilian-generated data, digital space and the endless data flows that constantly fill it are generally cordoned off from the public.

In this broader conceptualization of the digital panopticon, it is no longer just physical bodies that are subject and prone to confinement or non-correctionalist forms of crime control, so are the flows of big data they produce. When one considers the nearly 3.5 billion mobile internet users, the over fifteen million texts sent every minute, the four hundred hours of new YouTube videos uploaded each minute and the more than 4.1 billion YouTube videos watched every minute of the day (Schultz), it comes as no surprise that police are consumers and users of big data and big data programs that provide data analysis (Joh, "Feeding" 289). As Joh points out, "[p]olice are not simply end users of big data. They *generate the information* that big data programs rely

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[25] Known as an international mobile subscriber identity catcher (IMSI), the mobile surveillance device works by mimicking a cellphone tower, "tricking all phones within a particular range to go through it" (Allen et al.). The device can be used to identity "the location of a specific phone" with more accuracy than the data obtained from telecommunication providers, and has the "ability to capture other data such as numbers dialed from a phone or text messages," as well as "eavesdrop on calls and jam phones to prevent them from being used" (Allen et al.). Although the TPS denied using or even possessing Stingray technology in 2015, documents obtained by the *Toronto Star* show that they have used the technology on five different investigations as far back as 2010 (Allen et al.).

upon" (289). Since crime is not a naturally occurring phenomenon (289), nor is it a neutral category (Maynard 86), it requires that police engage in the active collection of information (Joh, "Feeding" 289). In this process of police-based, data collection—information that is disproportionately collected from racialized people—police make visible the types of crime they want to see (290).

With the over-surveillance and over-policing of Black people in the US and in Canada, the use of BWCs and other state surveillance technologies and databases exacerbate existing racial disparities in policing, endangering the lives of Black people, activists and communities in ways that were simply not possible prior to rise of big data surveillance. David M. Tanovich argues that because police frequently "see street level crimes as Black," the policing and profiling of such offences becomes a "self-fulfilling prophecy. The more that a group is targeted, the greater the likelihood that criminality will be discovered" (916). As police biases are introduced and embedded in the data systems and algorithms they deploy (Eubanks 165), police surveillance technologies like BWCs are in no way less discriminatory than before.

The data that police compile and use to justify certain policing practices and initiatives are skewed in numerous ways. To begin, fifty per cent of violent crime in the US goes unreported (Ferguson 72). In Canada, approximately seventy per cent of violent and non-violent incidents of victimization go unreported (Perreault 23). The result is that police data and/or crime statistics paint a vastly incomplete picture of crime that uses data to further justify policing initiatives. As Andrew Guthrie Ferguson argues, "[i]f the goal of

data-driven policing is to maximize accuracy using data, one must be cautious of the limitations of data analysis" (72). For example, in Newark, New Jersey, and other cities affected by gun violence, including Kansas City, Glendale and Chicago, police used a method of data-driven policing called risk terrain modeling to predict the likelihood of future shooting locations (68). By isolating different sets of geographical-based data obtained from locations such as narcotics arrests, gas stations, liquor stores, schools and bars, predictive computer software was used to create a risk terrain map, pointing to geographic locations where shootings are more likely to occur in the future (68).

Data and algorithms that are used in predictive policing models like this one tend to flag and target people in non-white communities (Joh, "Feeding" 301), as do instances of carding and other discriminatory policing policies. The race-based data that are collected and fed into these algorithms draw on biased and skewed crime statistics collected by law enforcement agencies, spatially deploying officers to over-surveil and over-police already racialized people and communities, reinforcing long-standing traditions and practices of racial discrimination. In turn, the predictive algorithmic models are rewarded with additional data that are collected by responding officers, making the biased algorithms even more confident that their initial spatial police deployment and predictions about geographically-based crime were indeed correct (301).

If the direction of policing in the US over the last few years offers us any indication of the future of policing in Canada, then data-driven and predictive policing are here to stay. Although police in cities across Canada have yet to adopt the expansive

range of data-driven and predictive policing models used in major cities across the US, they are slowly making inroads in Canada. As early as 2014, the CPS adopted BWCs equipped with facial recognition software (Doll and Sosiak). Developed by NEC Corporation of America, the software was designed to match photographs and videos from various crime scenes against the roughly 300,000 mug shots stored in the CPS database (Southwick). Within a matter of seconds, the software in the BWC is capable of using an algorithm to recognize and match facial patterns to those stored as mug shots in their databases (Southwick). While the technology is intended to capture and store facial images of suspects engaged in criminal activity (Southwick), Alberta's Information and Privacy Commissioner Jill Clayton voiced concerns "about the accuracy of any matches found by facial recognition software, and [about] how the information w[ould] be monitored and enforced" (Doll and Sosiak). Despite these concerns, any recommendations made by Clayton or other Information and Privacy Commissioners are not legally binding in a court of law (Doll and Sosiak). As Thomas K. Bud observes, not only has the legality issue of BWCs equipped with facial recognition software not been challenged in Canadian courts, "police services in Canada have very broad authority under the *Freedom of Information and Privacy Act* to collect, use and disclose personal information for law enforcement purposes" (118).

In collaboration with privacy oversight offices across Canada, the Office of the Privacy Commissioner of Canada published a document in 2015 called "Guidance for the use of Body-Worn Cameras by Law Enforcement Authorities." As a set of guidelines, the

document outlines what it refers to as a "four-part test" that law enforcement agencies should consider as part of their rationale prior to adopting BWCs ("Guidance" 3). The test includes the following determining factors: is there "a demonstrable operational need that a BWC program is meant to address?" (3); "are BWCs likely to be an effective solution to the operational needs that have been identified?" (3); since "the use of BWCs will result in a loss of privacy because recording individuals' actions and conversations is inherently privacy invasive," has the proportionality of the program's privacy intrusion been weighed against the loss of the community's privacy? (4); lastly, have other "less privacy-invasive measure[s] [that] would achieve the same objectives" been considered (4)? Along with this test, the document suggests that police who use BWCs simply "[t]ry to avoid recording bystanders" (6). Beyond acknowledging that police BWCs will not eliminate capturing audio-visual footage of civilians or bystanders, the document provides no real safeguards for members of the public, simply suggesting that police limit their retention periods of collected data, and limit—although not restrict—the access to such data by other state or non-state actors (6).

While federal and provincial privacy laws allow individuals the right to access their personal data through freedom of information requests, including audio-visual data that are captured by BWCs (8), there is no way of knowing whether one's data have been captured by police BWCs and/or stored in their databases. Since there is no legal responsibility on law enforcement agencies to avoid recording or retaining the data of civilians or bystanders, and no onus on the police to notify individuals whose data have

been collected, accessing one's data through the available freedom of information legislation is less compelling than it appears.

The Connected Officer

With these rather loose guidelines in place, the TPS announced, as part of their 2017 Final Report by the Transformational Task Force, their foray into what they call the "connected officer" ("Action Plan" 25). By the end of 2020, the TPS hopes to transition from the typical patrol officer who uses the police vehicle as a mobile workstation, communicates and receives information through radios, and takes notes in paper memo books, to connected officers who are equipped with smart mobile devices and technologies that provide them with access to data and software, "always and anywhere" (25). Although the report does not detail what types of devices, technologies or software will be made available to connected officers besides an eNotebook, it does indicate that "all officers will be able to use their new mobile devices to access information and analysis that will give them a richer understanding of the city and specific neighbourhoods," including "economic, social, demographic and behavioral data, as well as other information such as crime statistics" (25).

To add to this lack of transparency, the report does not explicitly associate the use of BWCs with connected officers, nor does it directly state that the data and software will be used to formulate predictive policing models. It does, however, recognize that officers will be able to use their mobile devices to capture images (25), and that this new method

of policing that makes use of big data "will enable a predictive approach" (16). The report also recognizes the public's concern with the TPS in terms of bias, racism and discrimination, but lacks viable or concrete solutions to address these concerns. In fact, the report goes to the extent of suggesting that BWCs are effective tools in managing "inappropriate behaviours and actions" of police officers (13). It makes no mention of the sweeping and chilling effects that BWCs equipped with facial recognition can have on racialized people and the general public, which, "similar to police automated license plate readers…[are] constantly scanning faces, sorting, identifying and matching [them] with national databases" (Bud 120). Instead, the report merely asks its readers and community members to accept the notion that technology will somehow improve or resolve issues related to bias, race and discrimination.

The main drawback of this report is that it fails to offer any details on how smart mobile technologies will be deployed with connected officers across communities in Toronto. Regardless of Chief of Police Mark Saunders' assurances "that transparency, inclusiveness and community partnerships remain central to everything [they] do" ("Action Plan" 5), in light of the existing disconnect between the TPS and marginalized communities, the report offers no insight on how smart mobile technologies will address or repair these existing and growing rifts, distrust and fear of police. As Ferguson maintains, "[t]his is the underlying fear—that the history of unjust policing practices will be justified by technological spin" (79). For Black and other racialized people, the notion that the connected officer, or that data-driven predictive policing

models, will by some means "improve police-community relations simply does not compute" (78).

The failure to address oppressive and repressive policing practices that are concealed in predictive technologies may result in additional social unrest and police shootings (79). As the continuous collection and processing of civilian and police data inform connected officers of geographic areas to spatially target, police may "feel additional license to investigate more aggressively" in communities they consider more dangerous than others (79). This data-driven and racialized knowledge production may "alter the daily practice of officers, leading them to resort to physical force more often" (79), thereby fuelling the self-fulfilling prophecy of race-based policing. In this way, attempts to use predictive policing models to prevent future crimes from occurring are in no way objectively achievable. As Lupton points out, data-based knowledges are not neutral in nature; instead, they are "politics of measurement" (96). The multitude of ways in which data are collected and fed into predictive models for analysis cannot be isolated from the subjectivities, relationships of power and ways of seeing that are harnessed by the institution of policing.

The introduction of the connected officer will likely usher in a new model of policing in Ontario and Canada, one that will become more dependent on forms of knowledge production and communication that are not community-based. It is true that policing has always relied rather heavily on the collection and analysis of data; however, the shift to big data that are now available to police through modern technologies,

systems and software, will bring about pivotal changes in the way that policing will be conducted. For data-driven and predictive policing, the data that bodies generate will have more value for law enforcement than the physical bodies themselves. Although there exist differences between different bodies and the different data sets they produce, all bodies are inextricably linked to their data.

Under vastly different circumstances and power dynamics, we can likewise consider connected officers as not only corporeal vehicles through which mobile technologies collect and analyze civilian data, but as bodies that generate their own sets of data. As such, their bodies can also become vehicles through which their own data can be used to measure or evaluate their labour efficiency ("Action Plan" 31). Through this lens, the bodies of civilians and connected officers share an unlikely commonality in that both are seen and treated as technologized, hybrid beings. Without equating the disparate circumstances under which civilians and connected officers are made into hybrid beings, the metricization of the connected officer, for example, works to not only endanger the lives of racialized people by over-surveilling and over-policing their neighbourhoods and communities, it also works to subject the connected officer to 'intra-veillance,' a form of organizational surveillance that seeks to metricize its own subjects for the purpose of making them more cost-efficient to their organization ("Action Plan" 16).

Effectively, both civilians and connected officers are hybridized subjects of neoliberal governance through metricization. Racialized people have their data frequently metricized by law enforcement as ways of computationally assessing and managing their

perceived and imagined levels of risk. Connected officers, on the other hand, will likely have their data metricized to reduce or eliminate what the TPS views as work-related risks or inefficiencies. These are described primarily as a matter of responding more effectively and efficiently to neighbourhood-centric policing and emergencies ("Action Plan" 22). But as Lupton observes, this contributes to the construction of "metric assemblages," which are "derived from digital databases [and] lend visibility to aspects of individuals and groups that are not otherwise perceptible" (61). The use of technologies for metric assemblages allows for a type of visibility that not only makes individuals or groups more perceptible, but it makes for a type of visibility that reduces bodies to metrics as a way of maximizing their cost-efficiency. While the TPS "hope[s] that money does not become the focus of discussion on [their] final report" (22), the metricization of connected officers is clearly tied to computational, cost-saving measures and budgetary concerns (6, 10, 32).

What remains to be seen with connected officers is not so much how performance metrics will be used against them, but how metrics might be performed by them. In considering how data-driven and predictive policing operate in a system of reinforcement learning, where prediction models can be strengthened or weakened by the accuracy of the predictions made, officers can likewise strengthen their performance metrics by continuing to spatially police and surveil communities of colour, already identified by skewed crime data and predictive algorithmic models as 'high-crime areas.' For instance, if officers are deemed to be metrically more efficient by quickly responding to certain

crimes that have been statistically associated with certain neighbourhoods, then maintaining spatial proximity to such neighbourhoods will increase the probability by which officers can inflate their performance metrics. In other words, officers can use their connected mobile devices to perform for data and predictive algorithmic models in ways that ensure "an endless surveillance loop: monitoring that results in data that justifies even more monitoring" (Joh, "Beyond" 136). With access to real-time data, including information on neighbourhoods, crime trends and general policing metrics ("Action Plan" 54), connected officers can use the race-based surveillance loop as a performance tool—a way of securing their place in what TPS Chief Saunders calls "the new way forward" (5).

Conclusion: The Future of Policing

With predictive policing models already in place, elements of the carceral will continue to permeate the everyday spaces of private, public and digital life. The relationship between civilian mobile phones and police BWCs provides one way in which data flows are used to compromise and bridge the gap between these seemingly contrasting technologies. Hille Koskela argues that camera technologies constitute and enable a degree of watching that is far less dependent on eyes, or what she refers to as "'the gaze without eyes'" ("The Gaze" 243). Although Koskela's analysis comes at a time that precedes the rise of big data, she focuses on how video surveillance cameras possess the power of the Foucauldian gaze (259). That is to say, although people in public space who are monitored by video surveillance cameras "are aware that someone may or may

not be looking at them, they are aware of the gaze, and this gaze is (partly) unrelated to the act of looking. The gaze is always where the camera is" (260). For Koskela, CCTV surveillance in urban space mimics Michel Foucault's description of the panopticon as an "architectural apparatus," which creates and sustains "a power relation independent of the person who exercises it" (*Discipline* 201). As an unverifiable surveillance technology, CCTV seeks to recreate the panoptic model of control in which the inmate or, in this case, the civilian never quite knows whether they are being watched at any given moment (201). But with the advent of surveillance and sousveillance technologies and the rise of big data, the surveillance gaze has become even more disembodied than before. It is no longer concerned with maintaining visibility as a mechanism of control. In fact, invisibility has become the primary means by which power and control are now created, maintained and exercised under this new panoptic model.

The creation of digital space has facilitated new ways of looking, watching and surveilling that are less visible but more invasive than conventional surveillance technologies, which tend to be both visible and visual. On the surface, the invisibility of the Internet and the exponential growth of its digital space appears to be less policed than public spaces. If policing is understood in the traditional sense, then, indeed, this seems to be true. Yet, as this chapter has demonstrated, policing in the digital age is anything but traditional. It has made the policing of citizens and, specifically, Black citizens more expansive through the massive troves of digital data that are generated every second of the day through computers, mobile phones and the IoT. Because these data are created

and transmitted on and from personal devices, people sometimes fail to consider the extent to which they are used to police and surveil all forms of our online usage and behaviour. As these technologies become more indispensable to our everyday ways of modern life, including acting as the primary modes of communication, entertainment and consumerism, the scope and scale of dataveillance, information and surveillance capitalism, will far exceed the more conventional modes of policing and surveillance that we have become somewhat accustomed to. As our principal means of communication, whether through phone calls, text messages, web browsing, social media, or the array of other affordances that are available on or through digitally-based technologies, law enforcement agencies, governments and corporations are provided with a cornucopia of inconspicuous ways to monitor civilians and themselves.

Unlike other forms of top-down, organizational surveillance that conceal themselves within the facades of buildings or public spaces, dataveillance and surveillance capitalism are covert by the nature of their immateriality. Not only that, but most of these newer modes of surveillance are increasingly operating without the need for human intervention. It is true that human bodies are required to generate the data that needs to be computationally processed, but humans are also increasingly less required in the collection, processing and analysis of such data. Michael L. Rich argues that the colossal strides made in recent years in the field of machine learning (ML), described broadly as any training algorithm or "computer program that improves its performance [or learning] through experience or training" (Sotiropoulos and Tsihrintzis 10), has been

especially useful in "revealing otherwise unrecognizable patterns in complex processes underlying observable phenomena" (Rich 874-875). Put more simply, ML uses "algorithms to replicate human thinking" (Noble 29). As ML helps computers learn about underlying human processes and patterns by using mathematical models that are applied to flows of new data in order to predict future phenomena (Rich 875), law enforcement agencies have turned to more advanced, computational and cost-effective models of policing.

In combining BWCs with facial recognition software that can compare and match the faces of citizens to those in existing databases, ML can go one step further by drawing on big data analysis to identify potential criminals in public spaces (875). By applying ML methods to the torrents of available user-generated data, law enforcement agencies can use "past offender and crime scene data to create more accurate profiles of unknown offenders" (875), while "leveraging behavioral data to identify individuals who are attempting to conceal their true—and potentially nefarious—intent" (875-876). Rich refers to these types of computer programs as "Automated Suspicion Programs, or ASAs," algorithmic-based and automated ways of converting user behavioural data into predictions of suspicion and criminal activity (876). One fear is that ASAs and other ML programs will be used by police to establish the legal standard of reasonable grounds, characterized by Canadian law as "the *probability* that a state of affairs *will* occur" (Skolnik 229). Accordingly, it is not enough that "the arresting officer subjectively believe that the standard has been met," but the standard must also "be objectively

justifiable in the sense that an ordinary person in the officer's place would conclude that there were indeed reasonable grounds" (233). With that, another fear that surfaces with ASAs, or data-driven predictive models of policing, in general, is that they may eventually render the standard of reasonable grounds meaningless in the future (Rich 895).

By resorting to computer programs that can presumably automate, process and analyze big data in ways that can predict an individual's inclination for engaging in criminal conduct, the standard for establishing reasonable grounds for arrest, search and/or seizure may shift from police officers to automated systems and technologies. As Rich points out, as long as ASAs are somewhat quantifiably accurate in their predictions of criminality, then ML programs are "arguably analogous to an assertion of the existence of probable cause or reasonable suspicion by a person trained in making such assessments" (896). Certainly, the more that civilians and law enforcement rely on technologies for their everyday lives and for everyday policing, the more dependent on them they become. This rather obvious understanding of technological dependency is not a new idea or argument; however, it does require some further nuance.

While processes of data collection and analysis are indeed data-driven and, thus, disembodied, the computer hardware of both civilian and police technologies is often worn on the body. This does not merely apply to police BWCs but also to mobile phones, smartwatches and other connected mobile technologies that go where the body goes. The physical inseparability of these and other mobile devices from the body and the given

space that bodies occupy, requires a different conceptualization of technological dependency. Whereas dependency often implies some degree of subordination by definition, we might think of the relationship between humans and data-driven systems as co-constitutive. Not only are humans dependent on mobile technologies for a range of everyday activities, but data-driven systems are equally dependent on humans for generating the data they need to operate.

This sense of reciprocity begins to dissipate once we consider the exchange of data between human and machine. Machines are increasingly beginning to produce their own data by 'seeing' for themselves, specifically in the field of robotic policing. In 2017, the Dubai Police introduced their first-ever robot police officer, a life-size robot on wheels that is equipped with facial recognition technology, capable of comparing and matching faces in police databases, reading vehicle licence plate numbers and identifying unattended bags in Dubai's financial and tourist hubs ("Robocop"). As one of the leaders in robot policing and artificial intelligence (AI), the Dubai Police recently created a new division: the General Department of AI, whose objective by 2031 is to implement AI methods across all areas of policing, "including security, forecasting of crime and traffic accidents, and developing the best techniques and AI tools to serve the needs of the people locally and internationally" (Bridge).

In April 2019, the Dubai Police hosted the Future Societies 5.0 summit, an event that directly addressed "how digital technology can allow international police forces to establish securer, safer societies through innovations such as AI surveillance, predictive

policing and the deployment of robot officers" (Bridge). As the director of the newly-minted AI department Khalid Nasser Al Razooqi states, their aim is to "'become the smartest police force in the world…by [building] the most advance[d] AI technologies'" (qtd. in Bridge). Al Razooqi also offers a perspective of efficiency that resonates closely with the TPS connected officer. As part of the rationale behind replacing twenty-five per cent of Dubai's human patrol officers with robot police officers by 2030, Al Razooqi argues that, "'robots can work 24/7. They won't ask you for leave, sick leave or maternity leave. [They] can work around the clock" (qtd. in "Robocop"). If law enforcement agencies or police unions do not consider civilian rights to privacy as the main impediment to adopting predictive, digital and robotic surveillance technologies, then they should consider their own long-term job security in what appears to be shaped by budgetary restraints and cost-effective measures.

As policing trends around the world edge closer to not only data-driven, mobile digital technologies, but to data-driven predictive policing and robotics, questions of police transparency and accountability will become far more pressing and complex to answer. What will social justice and political activism look like in an increasing age of digital surveillance? How will digital systems and robots be held accountable when they presumably take on some of the decision-making processes of arresting individuals, either before or after the commission of an alleged crime? As machines and robots become more autonomous, how will their autonomy be made transparent and accountable? Patrick Lin suggests that the question of personhood will also need to be rethought when robots

become engaged in conduct that involves legal liability (8). In other words, if non-human subjects are responsible for life-altering, legal decisions that involve human subjects, then what sort of interpretations and revisions might we expect with the criminal justice system and the field of policing? Since the move towards machine and robotic policing appears to be inevitable, how will instances of police misconduct be handled and by whom, considering that human police accountability still remains largely problematic? As police surveillance technologies that rely on computational processes continue to develop at high rates of speed, future research in these areas will likely entail more intricate legal and ethical questions. These will not only involve questioning what, in fact, constitutes personhood, but also what may constitute notions of identity and consciousness.

Chapter 3

From Mobility to Stuckedness: Race, Religion and the (De-)Evolution of the Modern Airport

> "Your worst enemy, he reflected, was your own nervous system. At any moment the tension inside you was liable to translate itself into some visible symptom."—George Orwell, *1984* (60-61).

Introduction: Shifting Airport Landscapes Post-9/11

On 11 September 2001 (9/11), terrorist hijackers seized control of American commercial airliners and used them as "weapons of mass destruction" (Bahdi 298), targeting the World Trade Center Towers in New York City, New York, and the Pentagon in Arlington County, Virginia. Minutes after American Flight 77 crashed into the Pentagon, the Federal Aviation Administration (FAA) issued "the first unplanned shut down of civil operations throughout U.S. airspace" ("Chronology"). The FAA order, which cleared the airspace over the United States (US) of the 4,546 flights that were airborne at the time the order was issued, was followed with the closure of all airport operations ("Chronology"). The closure grounded all domestic flights, re-directed some transatlantic flights and ordered foreign commercial airliners en route to the US to return to their points of departure (Zuckerman). By 28 September 2001, 6,155 members of the National Guard were deployed across 420 airports in US states and territories ("Chronology"). During the first week of October 2001, the aircraft security team of the Secretary of Transportation made a series of recommendations that permanently altered the aviation industry.

These recommendations included the installation of flight deck barriers on all commercial aircraft, as well as significant changes to security training and the general securitization of the airport. The recommendations also called for an increased sharing of security information, the evaluation of new surveillance technologies, improved screening measures and the implementation of a voluntary pre-screening program ("Chronology"). In short, the modern airport was quickly reconfigured into the "chief locus" of the global surveillance apparatus (Lyon, *Surveillance Studies* 122). In Canada, although the precedent of aviation terrorism had already been set by the tragic bombing of Air India Flight 182 on 23 June 1985,[26] Canadian airports did not immediately undergo a large-scaled security transformation, largely because of Canada's "lengthy disavowal of the bombing[] as an event of serious significance to Canada as a nation" (Chakraborty et al. xiv). Only after 9/11 did the security and surveillance landscape at Canadian airports begin to change, as the Canadian government adopted many of the same recommendations issued in the US.

Unlike the bombing of Air India Flight 182, which occurred over the Atlantic Ocean and in Irish airspace—far from the borders of Canada and the US—the 9/11 attacks on the World Trade Center Towers occurred in closer geographical proximity to

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[26] The 1985 bombing of Air India Flight 182 remains the deadliest act of aviation terrorism in Canadian history, killing all 329 people on board, including 280 Canadian citizens and 86 children. As Chandrima Chakraborty observes, because the tragedy occurred on an Indian air carrier outside of Canadian borders, the bombing was initially framed by the Canadian government as a foreign tragedy, one that was viewed in Canada as "Indians on an Indian plane going to India" ("Air India").

the Canadian border. What prompted Canada to implement similar airline surveillance and security measures to those introduced and adopted in the US was not only the fact that Canada and the US share the world's longest international land border, but that they are also bound together by the close proximity of their respective airspaces. Operating as an evolving bi-national organization, Canada and the US work collaboratively to make up what is called the North American Aerospace Defense Command (NORAD), first established in the late 1950s. In this bilateral partnership with law enforcement, security partners and homeland defense, NORAD's main objectives are to "prevent air attacks against North America, safeguard the sovereign airspaces of the United States and Canada by responding to unknown, unwanted, and unauthorized air activity approaching and operating within these airspaces, and [to] provide aerospace and maritime warning for North America" ("About NORAD"). While the bombing of Air India Flight 182 was planned in Canada and set in motion by a group of Sikh separatists in British Columbia,[27] the detonation of the bomb in Irish airspace did not pose a threat to Canadian and American airspaces as did the acts of aviation terrorism on 9/11.

On the heels of the 9/11 attacks, the US Congress passed the Patriot Act in October 2001, designed to equip law enforcement agencies "with new tools to detect and prevent terrorism" ("The USA Patriot"). In December 2001, the Parliament of Canada passed the Anti-terrorism Act, creating new criminal offences linked to terrorism,

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[27] The Air India Bombing was further aided by the serious gaps and deficiencies in the threat assessment determination by the Royal Canadian Mounted Police (Major 91).

including financing, facilitating and carrying out terrorist activities. Many years later, after the creation of the US Department of Homeland Security and the passage of the Homeland Security Act in November 2002, Canadian Parliament passed the Anti-terrorism Act, 2015. As the Canadian Civil Liberties Association points out, the act "makes significant and controversial changes to national security, anti-terrorism, and privacy law" ("Understanding Bill C-51"), prompting amendments to the Aeronautics Act while enacting the Secure Air Travel Act, "a new legislative framework for identifying and responding to persons who may engage in an act that poses a threat to transportation security or who may travel by air for the purpose of committing a terrorism offence" (Anti-terrorism Act, 2015). As a space that is pivotal to the global flows of people and economic goods, the airport remains a site that is considered vulnerable to attack (Lyon, *Surveillance Studies* 122). In turn, the vulnerability of the airport also makes the nation vulnerable to attack.

The relationship of threat and insecurity between the airport and the nation has come to define the airport more by its security and surveillance infrastructure, and its reliance on technologies to prevent such attacks in the future, and less by the controversial legislation that differentially disempowers travelers passing through it. Reem Badhi argues that 9/11 signaled a shift in the way the modern airport was publicly and politically perceived. Attention and scrutiny turned towards airport security and its failures to adequately screen the alleged Muslim and/or Arab hijackers who boarded the commercial airliners as passengers (Badhi 298). By sharing presupposed racial, ethnic

and/or religious associations with the 9/11 hijackers, Muslim, Arab and even Arab-looking travelers were subsequently subjected to higher levels of security and surveillance measures at major international airports around the world. Junaid Rana suggests that the post-9/11 racialized figure of the dangerous Muslim terrorist is one that follows a political and rhetorical trajectory, a "rhetoric of terror in the domestic and global War on Terror [that] is instrumental to constructions of racialized Muslims" (56). As Rana clarifies, the rhetoric of terror that sustains the fictionalized figure of the dangerous Muslim is deployed in "the use of panics and perils as techniques of racial formation… fictionalizing [the] process of risk, fear, and potential" (56). Along with also fictionalizing the concept of the nation, these rhetorical processes contribute to a post-9/11 vocabulary that describes the terrorist according to the racialized and fictionalized figure of the dangerous Muslim (56).

This chapter examines how the intensification of this trope in the post-9/11, airport landscape continues to have real and significant repercussions for Canadian Muslims. It draws on data from Baljit Nagra's and Paula Maurutto's ethnographic study of the experiences of Muslim Canadians at airports and border crossings in Canada, and analyzes how the airport's security and surveillance infrastructure undermines Canadian Muslim citizenship and sense of belonging. Moreover, this chapter interrogates how anxiety is produced, experienced and internalized by some Canadian Muslims within the space of the airport and outside it, exploring how different manifestations of anxiety have become staples of airline travel for some. I rework Ghassan Hage's concept of

"stuckedness" (100) by conceptualizing what I refer to as the 'anxiety of stuckedness,' a form of stuckedness that is largely situated in and around cross-border airline travel for Muslims. For Hage, stuckedness is a heroic form of waiting out the crisis—whatever that crisis may be—a process that involves being "resilient enough to endure stuckedness, or…to be able to *wait out* your stuckedness" (100). By reframing stuckedness within the security and surveillance apparatuses of the modern airport, stuckedness for some Canadian Muslims is experienced not as a heroic form of waiting out the crisis but as a potential crisis in and of itself. In other words, stuckedness in the airport is accompanied by mental and physical anxieties that are borne out of waiting, and where the process of waiting becomes a potential crisis that cannot be alleviated by more waiting, or through acts of leisure and consumption that are facilitated by the airport. For these Canadian Muslims, stuckedness in the airport produces an escalation of anxiety, where one form of stuckedness can frequently give rise to another. In a space where waiting out one crisis can be followed by a potentially more egregious crisis, the anxiety of stuckedness cannot always be resolved by simply waiting it out.

In the remainder of this chapter, I turn to the racial and cultural politics of airport security and surveillance technologies, focusing primarily on biometric systems. I attend to what Kevin D. Haggerty and Richard V. Ericson describe as the "surveillant assemblage," a system by which human bodies are abstracted from territories and separated into data flows, only to be reconstituted as data doubles for the purpose of being further scrutinized and targeted for a multiplicity of surveillance (606). By transforming

human bodies into data doubles, we witness "the formation and coalescence of a new type of body, a form of becoming which transcends human corporeality and reduces flesh to pure information" (613). At the same time, Haggerty and Ericson note that data doubles are also a form of discriminatory pragmatics, providing institutions with information that allows them to discriminate against certain populations (614). Lyon invokes the term "social sorting" as one of the central aims and features of broader surveillance systems, with the purpose of "obtain[ing] personal and group data in order to classify people and populations according to varying criteria, to determine who should be targeted for special treatment, suspicion, eligibility, inclusion, access, and so on" (*Surveillance as Social* 20). As a space that makes passage through its security and surveillance infrastructure highly uneven, especially for Muslim travelers, the airport clearly privileges some travelers over others. Acting as a "data filter" that siphons those who pass through its space "as consuming opportunities and as threat risks" (Lyon, *Surveillance Studies* 123), Muslims often find themselves funnelled into the latter of these categories, evident with their disproportionate experiences of racial profiling at airports and border crossings.

Central to this chapter is the understanding that airport surveillance technologies and biometric systems do not operate in cultural isolation. They tend to reflect the existing and evolving cultural consternations of the nation. The biometric turn at the airport must always be seen within the context of its violent, racist and colonial past, despite the complex advancements in many biometric technologies. In this vein, this chapter historically contextualizes the birth of biometric techniques, technologies and

systems, querying the objectivity that is commonly associated with biometrics as race-neutral guarantors of identity. Some of the questions this chapter explores are: in what ways has the post-9/11 airport become a carceral space for Muslim travelers? What type of identity do biometric systems purport to authenticate and verify by abstracting bodies? What notions about citizenship does the vulnerability of Canadian Muslim travelers call into question?

A Brief History of Airline Terrorism Prior to 9/11

While much of this chapter concerns itself with the post-9/11 airport landscape and the ways in which Canadian Muslims are targeted by its security and surveillance apparatuses, it is important to begin by briefly contextualizing the figure of the dangerous Muslim in relation to the history of the aviation industry. In what became known as "the aerodrome of revolution" in the late 1960s and early 1970s, David Pascoe observes that "old staples of conflict—battlefields, nation states and rules of engagement—were no longer valid. In this new theatre of war…mass destruction would be carried out in confined areas—on the ramp, in jets, at check-in desks, or in baggage halls" (191). Beginning in 1968 and extending into 1972, Pascoe traces the association between aviation terrorism and increased security and surveillance measures at major international airports to the Middle East. More specifically, he connects this relationship to Palestine and the Popular Front for the Liberation of Palestine (PFLP), a revolutionary socialist

movement founded by George Habash, following the Israeli occupation of the West Bank in 1967.

On 26 December 1968, guerrillas from the PFLP attacked and killed an Israeli passenger on board El Al Flight 253 at Athens International Airport, then known as Ellinikon International Airport, claiming that the Israeli airline was operating under the auspices of the Israeli Defence Ministry (189). Under the belief that Israel was deploying El Al commercial aircraft as part of a covert act of war against Palestine, Habash accused El Al Airlines of using Israeli Air Force pilots to fly their commercial aircraft and to surreptitiously transport Israeli troops and ammunitions (189). According to Habash, the appropriate measure of retaliation in this war was "'to strike the enemy wherever he happens to be,'" which included "'European airfields and where El Al planes land or take off'" (qtd. in Pascoe 189).

A few years later on 30 May 1972, three Japanese terrorists shot and killed twenty-six people at Tel Aviv's Lod International Airport (190). Kozo Okamoto, the lone Japanese terrorist survivor, claimed to be a member of the Japanese Red Army, a terrorist organization that was subcontracted by the PFLP to carry out the attack at Lod International (190). Following this attack, in which most of the victims were not Jewish, the PFLP expanded its list of enemy targets to include "anyone remotely connected with Israel" and anyone who supported the capitalist system (191). Although the terrorist attack at Lod International Airport was carried out by Japanese terrorists, the PFLP's publicized mandates for achieving liberation for Palestine, including the "Arabization" of

the Palestinian cause and the "liquidation" of Israel through guerrilla warfare "waged by all Arab masses" (Dishon 411), implicated Palestine, Muslims and the Arab world in the media spectacle of aviation terrorism. The global media attention that the PFLP received, along with their new and expansive list of potential targets outside of Israel, invariably destabilized the aviation industry and instilled serious distrust in airport security and surveillance infrastructures.

Prior to the PFLP's aircraft hijackings and airport attacks of the late 1960s, it was possible "to drive a vehicle from landslide to airside, across the apron to the airliner, and open fire; or less ambitiously, to attack it with rockets from the perimeter fence on take-off" (Pascoe 191-192). By the early to mid-1970s, however, as incidents of aircraft terrorist attacks and airport security breaches grew, "airport defences in most developed countries were greatly tightened…guards were moved in; aircraft were made more inaccessible; the terminal buildings and airports began to share security features with maximum-security prisons" (192). The security and surveillance infrastructure that exists in many of the major international airports today was borne out of the aerodrome of revolution and developed, initially, by El Al. As Pascoe explains, El Al took the lead in creating, implementing and standardizing new security and surveillance protocols that were adopted by other airlines and airports around the world:

> [El Al] installed its own state-run security facilities within foreign airports. All luggage was inspected not just carry-on bags…Passengers processed though metal detectors and sniffer dogs were on hand to identify Semtex. Throughout these

> examinations, police continued their interrogations, repeatedly requesting passengers' names, dates and places of birth, reasons for visiting Israel and so on…Security personnel who had memorized photographs of known terrorists mingled in departure lounges along with discreet guards armed with specially developed low-calibre pistols who followed passengers onto jets, with orders to shoot to kill. (192-193)

It is at this point in airport security history that we get a glimpse into the origins of the transformation of major international airports into hyper-securitized and hyper-surveilled spaces, although certainly not impenetrable spaces.

Originally, the airport was celebrated as a paragon of postmodernism. As Peter Adey writes, the airport was often romanticized and "rendered as a site of freedom, where the pressures of the world slip[ped] away" ("Surveillance at the Airport" 1367). Questions of who could travel, where they could travel and what borders they could cross, were questions that did not emerge alongside the development of the (post)modern airport. Instead, these questions came to the fore only after the airport was no longer considered a space for "free-flowing fluid and mobile identities" (1367). The aerodrome of revolution played a major part in reorienting the narrative that surrounded airline travel. It also changed the way that the airport came to be seen as a site of intense security and surveillance, traversing national borders and infringing upon civil liberties. With the evolution of the highly technologized and surveilled airport, security and surveillance

protocols on the ground became as important to the safety and security of the "winged containers" in the sky (Pascoe 27).

As the aerodrome of revolution and the attacks on 9/11 emphasized, not only did the aviation industry rely on airport security on the ground to guarantee the safety of its passengers in the air, it now relied on a high degree of security and surveillance measures that obfuscated the legal and privacy rights previously afforded to airline travelers. The airport morphed into a space of sovereign authority where it began to exercise what Giorgo Agamben calls "the paradox of sovereignty" (*Homo Sacer* 15). As Agamben explains, the paradox "consists in the fact the sovereign is, at the same time, outside and inside the juridical order…the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law" (15). By operating in this state of exception, sovereign power is enacted at the airport through border and law enforcement authorities who are granted the power to apply the rule of law without subjecting themselves to the rule of law.

In this state of exception, we also see the emergence of the airport as a racialized space of exception. In the creation of what Didier Bigo refers to as the post-9/11 state of "global 'in-security'" (47)—a narrative that was propagated by the US and largely attributed the rise of terrorism and criminality to racialized foreign bodies—we see the development of the "governmentality of unease…characterized by practices of exceptionalism, acts of profiling and containing foreigners" (47). Bigo's governmentality of unease becomes particularly evident within the modern airport, where exceptionalist

acts enable border authorities to racially profile travelers by abrogating the laws in place, which are intended to prevent such acts from occurring. The attacks on 9/11 confirmed the precedent that had been set decades earlier by the aerodrome of revolution; namely, that aviation terrorism was the work of racialized bodies and, specifically, Muslim, Arab or Brown bodies.

Alongside the racialized spaces and states of exception that are enforced by human operators at the airport, we also see the enforcement of these spaces with non-human operators. As part of the airport's growing security and surveillance infrastructure, the range of these technologies tend to conceal the discrimination and surveillance of racialized travelers behind a facade of technical neutrality. As Bigo observes, technology often evades being "subjected to classic racism…[by] not hav[ing] the human defect of classifying some rather than others according to the colour of their skin" (60). Agamben urges us to resist what he views as "bio-political tattooing," surveillance technologies and techniques that, while at first are "reserved for foreigners find themselves applied later to the rest of the citizenry" (*Le Monde*). Although surveillance technologies and practices, including biometric systems, are eventually applied to all citizens, history informs us that they often surface as cultural and security responses to foreigners.

While these surveillance practices may ultimately affect the entire citizenry, there is a key distinction in the way they emerge as a result of racialized foreigners who are perceived to embody greater degrees of risk. Sunera Thobani asks that we rethink the distinction between categories of the racialized risky foreigner and the less risky citizen,

especially as this distinction pertains to terrorism. Thobani argues that in the US and in Canada, the blurring of the foreigner and citizen distinction began in 2002 with the US announcement that travelers from a list of Muslim-majority countries, including Iran, Iraq, Syria and other countries that have been associated with acts of terrorism since 9/11, "were to be photographed and fingerprinted at the borders" (243). This newly-established policy also applied to Canadian Muslims born in any of the countries specified on the US list, challenging and redefining their citizenship status as Canadians (244). With the racial profiling of Muslims at airports and border crossings, the US and Canada refused to distinguish between Muslims who were Canadian citizens and those who were not (242).

Distinctions between the risky foreigner and the less risky citizen were diminished in a process which, instead, sought to render all Muslims as risky bodies, despite their legal citizenship status and rights. By reconfiguring the definition of citizenship for Canadian Muslims, the US and Canada unofficially authorized policies of racial profiling at the airport by disavowing the legal protections afforded to Canadian Muslims. The repudiation of Canadian citizenship for Muslims also affected notions of cultural citizenship by undermining their own sense of belonging.

Racialized Knowledges at the Border Since 9/11

When we consider Muslim bodies within the space of the airport, there is perhaps no other site in which these travelers encounter more heightened degrees of what I refer to as the anxiety of stuckedness. Hage explains that stuckedness, or "the social and

historical conditions of permanent crisis we live in," has been so normalized that it is no longer "perceived as something one needs to get out of at any cost" (97). Rather, stuckedness has become something that "is now *also* experienced, ambivalently, as an inevitable pathological state which has to be endured" (97). For Hage, stuckedness—or the waiting out of a crisis—is viewed as a test of endurance, where the resiliency of enduring the crisis is celebrated as a form of heroism (100).

By celebrating stuckedness as a form of ambivalent heroism, in which only the brave can survive, stuckedness also emerges as "a governmental tool that encourages a mode of restraint, self-control and self-government in times of crisis" (102). As Hage goes on to argue, "enduring the crisis becomes the normal mode of being a good citizen and the more one is capable of enduring a crisis the more of a good citizen one is" (104). Hage is also attentive to the racial and classist dimensions that this mode of governmentality takes on, as those who are deemed not to know "how to wait are the 'lower classes', the uncivilized and racialised others. The civilized, approximating the image of the hero, are those who get stuck in a classy way. They know how to endure" (104).

For Muslim travelers, being stuck in the airport is experienced quite differently than non-Muslim travelers. The anxiety of stuckedness that I refer to more poignantly reflects the historic, racialized and traumatic dimensions involved in waiting out a crisis in the airport. In this space, the anxiety of stuckedness is often precipitated or initiated by acts of racial profiling. Although fears of the figure of the dangerous Muslim are often

seen as driving forces behind acts of racial profiling at airports and border crossings, a study by the Department of Justice Canada reveals otherwise. Whereas thirty-three per cent of participants[28] believed that racial profiling was a product of racism and prejudice, only twelve per cent indicated that racial profiling was a response that was motivated by fear (Crutcher and Budak 9). As a biopolitical space that manages populations as political and biological problems, or as Michel Foucault has explained, according to forms of knowledge derived from "biological and pathological features" (*Security* 474), the emergence of the post-9/11 airport came at a time where political, biological and pathological problems of the population were situated in and around the figure of the dangerous Muslim.

This form of biopolitics made airports and border crossings the frontlines in the domestic 'war against terrorism.' Anna Pratt and Sara K. Thompson explain that frontline border officers came to be viewed as "benign guardians of public safety, whose preemptive and morally charged work protects the endangered nation, local communities and innocents from harm" (625). Pratt and Thompson suggest that decision-making at the border is propelled by "a masculinist protectionist ethos" (625), one in which "[c]hivalry, not aggression and domination, is predominant in the professional identity cultivated and

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[28] Participants consisted of 1,703 respondents to a national general population survey from the public, using random sampling methods, conducted by Environics Research Group. The sample group included an over-representation of individuals who self-identified as belonging to a visible minority group, as previous research from the Department of Justice revealed that visible minority groups were disproportionately affected by anti-terrorism legislation and its measures.

expressed at the border" (625). Although fear is mobilized by the state as a way of informally justifying the airport as a hyper-securitized, biopolitical space, Pratt and Thompson argue that a masculinist protectionist ethos underpins decision-making processes at the airport by border authorities.

For many border officers, the nation is seen as a "damsel in distress" (626), and their chivalrous protectionism and unwavering vigilance is what ensures the nation "is not penetrated by risky foreigners" (627). Pratt and Thompson explain that this masculinist, protectionist logic is what provides "the deployment of racialized risk knowledges in the identification and exclusion of the 'bad men'" (627). Racialized risk knowledges deployed as a means of keeping the nation safe from 'bad men,' conceals the many acts of racial profiling that have become so integral to understanding the gendered power dynamics involved in constituting categories of risk through race and/or religion.

Indeed, the identification and expulsion of 'bad men' from the nation appears to be administered from a position of gendered power rather than from a position of fear. As Thobani argues, "the threat to the nation said to be posed by this religio-racial [Muslim] enemy was also imagined as gendered" (236). Whether one considers the threat emerging from "fanatic and hypermasculine Muslim men with their inborn propensity to blow up buildings and planes" (236), or from Orientalist tropes that describe Muslim women as being "oblivious to male domination" (237), the decision-making of border authorities is guided not by fear but by a gendered desire to protect themselves and the nation from an emasculating act of terrorism. Thus, the routine subjection of Canadian Muslims to

increased forms of security and surveillance (Nagra and Maurutto 167) becomes an exercise of dominant masculinity. By imagining the nation "as the proverbial damsel in distress" (Pratt and Thompson 635), which can at any moment be (re-)penetrated by the terrorist violence of Muslim men or women, the duty of border authorities appears overwhelmingly protectionist and paternalistic in nature (635). The reality of this gendered power dynamic within the airport often requires Muslim travelers, in particular, to submit to the discriminatory and racist demands imposed on them by the dominant masculinity exercised by border authorities.

The security discourse that surfaced after 9/11 in Canadian airports also seeped into Canadian policing models, implicating Canadian Muslims as potential threats to national security. Christopher Murphy observes that, "a highly politicized 'insecurity discourse' emerged in Canada designed to educate and persuade Canadians to be supportive of a more aggressive national security agenda" (451). This new agenda expressed external and internal threats to national security, which called attention to Canada's vulnerability and fragility as a state (451). As the Canadian government and its security officials reiterated the belief "that Canada is a probable target for a 9/11 style terrorist attack, [and] that terrorists are still doing business in Canada" (452), the post-9/11 security crisis altered the public discourse and the traditional model of community policing (461). As Murphy argues, 9/11 "transformed some urban communities into security problems for local police, changing communities from partners to suspects, from crime problems to security problems, and from communities *at* risk to

communities *of* risk" (461). In this model of policing, communities and citizens in Canada that were racially, ethnically or religiously associated with the 9/11 hijackers, were depicted as potential sources of domestic terrorism against the state.

The effects of this new form of securitized policing became particularly evident within the space of the airport. Since 9/11, Canada Border Services Agency (CBSA) officers have "received more intensive trainings devoted to terrorism," including techniques of identifying "photographs of known 'Muslim bad guys'" (Pratt and Thompson 632). These photographs often serve as visual cues by which racialized knowledges are both generated and transmitted (632). In this form of racialized knowledge production, racial profiling practices are causally and culturally determined by various visual indicators. CBSA officers are trained to interpret race, physiognomic characteristics and clothing as indicators of risk and suspicion, subjecting Canadian Muslims, or those visually perceived to be Muslim, to more intense levels of security and screening. For Muslim travelers, this suggests that security and screening at the airport have more to do with reproducing racialized knowledges than they do with acknowledging citizenship rights and status or, for that matter, actual risk assessment and management. Pratt's and Thompson's interviews with CBSA officers reveal that racial profiling of Muslims does indeed occur at the border as a method of risk management, despite official state claims that deny the use of racial profiling at airports and border crossings.

The Experiences of Canadian Muslims at the Airport

The racial profiling of Muslims at airports and border crossings is now, more or less, a widely recognized and acknowledged phenomenon. However, what remains less acknowledged is how Canadian Muslims encounter and experience these state surveillance practices within the space of the airport and outside it. As Nagra and Maurutto point out, "relatively few studies focus on how Muslims experience surveillance at the border and how this shapes their identities and citizenship" (167). Their in-depth interviews with young Muslim Canadians provide insight into how their experiences with state surveillance at airports and border crossings has changed and influenced their own sense of belonging in Canada (Nagra 94). Nagra's and Maurutto's interviewees reveal that the airport is a space in which the racialized category of the Muslim as the enemy other continues to be sustained and enacted.

Seen in the ways that Canadian Muslims are perceived and treated within the space of the airport as potential suspects or enemies, the additional security and surveillance protocols which they are often subjected to "reaffirm[s] Canadian national identity at the expense of Canadian Muslims" (Nagra 103). In other words, the space of the airport works to uphold the notion of a Canadian national identity by diminishing and excluding Canadian Muslims from its definition of a national identity. For this reason and others, Muslim travelers experience the brunt of exclusionary practices at the airport as its "decision makers consider [Muslims] a greater security risk than the rest of the population by virtue of their real or perceived Arab or Muslim identit[ies]" (Badhi 299). The negative

experiences of Canadian Muslims at the airport point to the state's abdication of equal rights guaranteed to all its citizens, regardless of race, ethnicity or religion under section 15, subsection (1) of the Canadian Charter of Rights and Freedoms. This disavowal of Canadian Muslims undermines Canadian Muslim identity and citizenship (Nagra 106), instilling and heightening anxieties for Muslim Canadian travelers in the process.

From 2005 to 2010, Nagra and Maurutto conducted fifty interviews with young Muslims living in Toronto or Vancouver (167).[29] In the eighty-one detailed incidents of unfair treatment at airports and border crossings, either experienced by the interviewees themselves or by people they knew, the participants responded that seventy per cent of those incidents occurred in airports (173). Of these incidents, fifty-eight per cent occurred while the interviewees were either in the US or attempting to enter the US; thirty-two per cent occurred in Canada; seven per cent occurred in England; and the remaining incidents occurred in Italy and Israel (Nagra 107). Although airports and land crossings constitute different spaces (Nagra and Maurutto173) in which different forms of security, surveillance and racial profiling play out, the interviewees did not make any distinctions

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[29] Nagra's and Maurutto's sample size included twenty-six women and twenty-four men between the ages of eighteen to thirty-one. The interviewees were recruited through personal networks, snowball sampling, and Muslim student organizations at the University of Toronto and Simon Fraser University. Participants were guaranteed anonymity and assigned pseudonyms in the study, and were asked to describe their experiences at crossing borders, how they dealt with the increased security and surveillance measures they encountered, and how those experiences affected their identities. Out of the fifty young Muslim Canadians interviewed, eighty-two per cent were Canadian citizens and the remaining eighteen per cent had been residing in Canada for five or less years.

between the two spaces (174). Instead, interviewees noticed "commonalities in the discriminatory practices they experienced at both locations" (173-174). With a focus on Canadian airports, this section draws specifically from the experiences of Nagra's and Maurutto's interviewees that reflects the anxieties of traveling through Canada.

Many interviewees expressed frustration with the racial, ethnic and religious dynamic of the airport's random check (Nagra 110). Interviewees cited their Muslim identities as the primary reason for being picked out of a line by border officers for questioning, interrogation and secondary searches (110). Interviewees also interpreted the random check as a coverup, intentionally designed by border officers to obscure the pervasive racial profiling of Muslims at the airport (Nagra and Maurutto 177). Under the guise of the arbitrary nature of random checks, not only do official state denials of racial profiling protect border officers from accusations of discriminatory practices at the airport, border officers also "avoid serious scrutiny while maintaining institutionalized race-based practices" (177). If random checks are deployed by border officers independently of any racial profiling as they claim, then why do questions about faith and faith-based practices often arise during random checks for Muslim travelers (Nagra 110)? As Maria, a twenty-three year old, hijab-wearing, Canadian woman reveals, border officers "'will ask 'if you're practising' or 'what you believe in,' which is 'funny cause what does it have to do with searching my bag?'" (qtd. in Nagra 110).

Racialized knowledges at the border are also informed by outward expressions and physical markers of Muslim identity, further compromising the sense of safety and

security for Canadian Muslims (Nagra and Maurutto 183). Radi, a twenty-five year old man born in Canada who has proudly professed his Muslim identity in public since 9/11, chooses to hide his Muslim identity at the airport (184). In a bid to "[l]ook as Canadian as [he] possibly can'," Radi follows the advice of his father by wearing a suit and trimming his beard as low as he can while traveling through airports (qtd. in Nagra and Maurutto184). Zaahir, a twenty-two year old man who immigrated to Canada from Saudi Arabia at the age of four, remarks, "'I shave my beard when flying because a beard combined with a certain behavior might make it more obvious that you are Muslim'" (qtd. in Nagra and Maurutto 184). For Atiya, a thirty-one year old, hijab-wearing woman born in Canada, removing the hijab is not an option. Instead, she opts to "'not wear the black scarf because that always has negative connotations…pink lipstick seems to help because it looks friendly'" (qtd. in Nagra and Maurutto 186). While some interviewees refuse to alter or conceal their outward Muslim identities when traveling so as to not disrespect their religion (185), other interviewees such as Radi and Zaahir engage in their own form of self-policing, managing their outward Muslim identities (185) as a way of attempting to mollify the racist, surveillant gaze.

As the majority of interviewees convey, being a Canadian citizen with presumed rights and freedoms has little value at the airport. For Canadian Muslims, the rights and freedoms guaranteed to them as citizens are provisional, constantly dependent on the subjectivities and discretion of border officers. Nagra and Maurutto argue that the treatment of Muslim Canadians at airports and border crossings distinguishes them as

inauthentic Canadians, creating avenues of differential treatment from those offered to non-Muslim Canadians (179). According to Maria, Muslim Canadians do not hold the same cultural currency as non-Muslim Canadians when traveling:

> Muslims who are born in Canada, to everybody they are not considered Canadian; they are considered Canadian born. Which is a difference, because as Canadian, you are part of this country, you contribute to society, you have some sort of pride. Canadian born means you were just born in Canada. A Muslim born in Canada is considered Canadian born. They are not considered Canadian, which is so different. (179)

Likewise, Aaeesha, a twenty-four year old Canadian citizen who immigrated to Canada from Pakistan at the age of five, opines, "'[y]ou could be a Canadian citizen, and you could have lived here for years, and yet they will still stop you…And I find that they do that more and more'" (qtd. in Nagra and Maurutto 179). As is evident through Maria's and Aaeesha's accounts, both a legal and cultural sense of belongingness is frequently reduced to the country of origin printed in their passports. Their contributions to Canada, how long they have resided in Canada and their status as Canadian citizens, are not considered by the state or the airport's security and surveillance apparatuses as any real indication of 'Canadian-ness.'

Nagra's and Maurutto's interviewees use terms such as "accidental Canadian[s]," "Canadian born'" and "'hyphenated-Canadian[s],'" to describe how they are not perceived as "'real' Canadians" and are, therefore, not afforded the same treatment and

rights as "'white Canadians'" (qtd. in Nagra and Maurutto 179). Peter Nyers suggests the term "'accidental citizen' is best understood as the abject counterpart to the essential citizen," tracing its historical precedent back to the internment of Japanese Americans during the Second World War, where the US media deployed the term "to make citizens of Japanese descent into undesirable and dangerous threats to national security" (24). As a term that is enveloped by a pejorative connotation as "something to be avoided…[and] not embraced," the accidental citizen is "considered to be incidental, non-essential, and a potentially catastrophic exception to the norm" (24). Where the citizenship of the accidental citizen is predicated on being "nominal (not necessary), ephemeral (not essential), and dangerous (not desirable)," the opposite is true for the desirable citizen who is lauded as "an essential citizen, a citizen of substance" (24). The opposition between the undesirable citizen and that of the desirable citizen, emphasizes how the participants in Nagra's and Maurutto's study are not only made to feel as though they are not 'real' Canadians, but that they are also non-essential or disposable within the space of the airport. Identified as potentially dangerous subjects, their accidental citizenship is viewed as nominal and ephemeral; hence, the rights afforded to them as citizens are denied or even revoked.

The experiences of the interviewees and the incidents in which their legal citizenship and cultural identities were ignored or altogether dismissed are not isolated scenarios. For some interviewees, random checks and secondary searches have become so routine that complaining is only seen to prolong the waiting process (Nagra and Maurutto

186). The anxiety of being stuck in secondary screening areas deters some Canadian Muslims from resisting the demands of assimilation or acculturation, which are placed on them through the surveillant gaze. In contrast, interviewees who wished to file complaints like Fahad, a twenty-eight year old man who immigrated from Syria at the age of fourteen, admits to not complaining "'because there is nobody to call and complain to'," adding that "'[he] do[es]n't think it would change anything' [anyway]" (qtd. in Nagra and Maurutto 187). In this form of institutional resignation, which Foucault describes as institutional docility, Muslim travelers can become "docile bodies" in that they are subjected to institutional regulation as a way of being "used, transformed and improved" (*Discipline* 136) for the purpose of maintaining order and discipline at the airport. It is important, however, not to read the compliance of Fahad, or the self-policing of outward identity demonstrated by Radi and Zaahir, as simple acts of resignation.[30] The attempt to mitigate the risk of being profiled and targeted for random checks or secondary screening is complex and difficult to navigate. Might these acts of resignation and/or self-policing be interpreted as coping mechanisms that can prevent one manifestation of oppressive power, waiting or stuckedness from (de-)evolving into another?

On the Anxiety of Stuckedness

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[30] Fears of being detained or refused entry to destination countries are two of the main reasons why interviewees comply with the discriminatory demands of border officers (Nagra and Maurutto 187).

The reverberations of recurring feelings of oppression, confinement or stuckedness at the airport lead to increased levels of anxiety for Canadian Muslims (Nagra 124). As Asima, a twenty-three year old woman born in Canada observes of her father, the anxiety begins outside the airport: "'[m]y father gets very anxious [about traveling]. He gets very uptight when we have to go across the border or even if we have to go to the airport. Even if he's not traveling, even if he just has to go to the airport, he gets very uptight'" (qtd. in Nagra 124). Samir, a twenty-three year old man who immigrated to Canada as a child, expresses a more specific concern with literally being stuck in the airport. He remarks,

> I'm a little bit hesitant to fly as much. Like, I feel like I don't want to be caught in a bad situation, maybe they're having a bad day, maybe some guy's just going to pull me in. Like, I've heard stories about people being called in and just kind of disappearing…'what if I get stuck in the airport?' Let me go there four hours early. Let me write a will before I leave. So you never know what's going to happen. (qtd. in Nagra 124)

As Samir suggests, one of the main concerns he has at the airport is an anxiety of being stuck or rendered immobile. This anxiety is brought about in numerous ways, many of which are attributable to the fears and exceptional power that is harnessed by the airport's security and surveillance regime. As he details in his account, the unexpectedness of detention, disappearance and death, are all real and contributing factors to his anxiety of being rendered stuck at the airport. We can trace many of these fears and anxieties—and

perhaps even the anxiety of stuckedness itself—to the case of Maher Arar. In so doing, we begin to see the shift in which the airport came to be perceived and understood by Canadian Muslims as a real and potential site of stuckedness through detention, interrogation, deportation and, in more extreme circumstances like Arar's, a site that facilitates extraordinary rendition.

In 2002, Arar, a Muslim Canadian citizen of Syrian birth, was detained by US authorities on a layover at John F. Kennedy (JFK) International Airport in New York City, attempting to return home to Canada after visiting his wife's family in Tunisia. He was detained at JFK International Airport for twelve days on allegations of being a terrorist and having connections to al-Qaeda, allegations that, as Justice Dennis O'Connor revealed in the *Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar*, resulted from the "misleading or false statements" (O'Connor 113) provided in large part by the Royal Canadian Mounted Police (RCMP). Following his detention at JFK International Airport, the Immigration and Naturalization Service ordered that "Arar be removed from the United States because he had been found to be a member of a foreign terrorist organization" (204). In a removal process more accurately known as extraordinary rendition, Arar was transferred to Syria instead of Canada, where he resided as a citizen. This process allows individuals to be interrogated and tortured in the receiving country in ways the are prohibited under the laws of the sending country (Barnett 2).

Arar was imprisoned and tortured in Syria for more than ten months until finally making a false confession to terrorist activity (18). After repeated diplomatic efforts to have Arar returned to Canada, despite resistance from the Canadian intelligence community (Perkel), Arar was permitted to return in October 2003 without facing any criminal charges. The culmination of Justice O'Connor's public inquiry exonerated Arar. In 2007, following Justice O'Connor's recommendations, the Canadian government led by former Prime Minister Stephen Harper, issued a formal apology and a compensation package to Arar, admitting Canada's complicity in his "'terrible ordeal'" (qtd. in "Harper's Apology").

Arar's case demonstrates the complete and utter erosion of Canadian Muslim citizenship in the post-9/11 era. Fortunately, the extraordinary rendition that Arar experienced is not a common occurrence for other Canadian Muslims. But, similar to the exceptionality of the 9/11 attacks, Arar's case produced effects that resonated throughout Muslim communities. Covered extensively by the Canadian national media and other media outlets, Arar's story profoundly contributes to the anxiety of stuckedness that some Canadian Muslims continue to experience at the airport. What connects Arar's case to the experiences and anxieties of other Canadian Muslims, and certainly to those in Nagra's and Maurutto's study, is the fragility of their racialized identities and citizenship at the border.

Arar's case also underscores the actualization of biopower that is present within the airport. As part of the airport's security and surveillance infrastructure, the

normalization of racism and discrimination that are seen in practices of racial profiling, treats race as the "precondition that allows someone to be killed," including non-literal forms of killing such as "increasing the risk of death for some people, or, quite simply, [subjecting others to] political death, expulsion, rejection, and so on" (Foucault, *Society* 256). With Arar's detention and subsequent rendition, the anxiety of stuckedness for Muslim travelers in the airport is symptomatic of something more precarious than the anxiety of waiting. For some Canadian Muslims, and particularly those born outside of Canada and with dual citizenship, the case of Arar illustrates a disturbing reality. The rendition of Arar shows that the state of exception and the racialized space of exception within the airport makes waiting part of a process that can facilitate a carceral reality of exclusion, deportation and even death.

These carceral removals can be thought of as processes by which the airport becomes un-stuck. They are processes that involve understanding stuckedness and un-stuckedness as part of a series of procedures in which the airplane emerges as the central carceral apparatus. While the airplane is a vehicle by which removals and deportation are enacted, transferring individuals from one place of stuckedness to another, it also functions as a vehicle by which new and other forms of stuckedness emerge. Commenting specifically on the deportation process, William Walters explains that "the plane is not a mere instrument that puts into effect a deportation decision…Rather, the plane is an irreducible part of the deportation apparatus where complex processes play out" (447). For the state, the airplane is a key carceral apparatus in the removal of stuck individuals

from within its borders. In the removal of naturalized and dual citizens, where the basis of removal centres in and around criminal suspicions instead of criminal charges—as we saw with Arar—these categories of citizens constitute part of what the state ultimately considers as a disposable citizenry.

These stuck individuals, which, as history has shown, may not pose any actual threat to national security, are removed by airplanes that are simultaneously vehicles for travel for some and vehicles of confinement for others. Walters encourages us to view removals or deportations of stuck individuals on airplanes as "material place[s] where people are deprived of their liberty just like any fixed, territorial setting of detention" (447). He goes on to argue that just because an airplane "is mobile and extraterritorial does not make it any less real as a place of highly unequal power relations where the risk of violence lurks" (447). Granted, Walters' analysis concentrates on cases of forced removals of migrants on commercial and charter flights, where deportees can encounter vast degrees of use of force by those who facilitate the removal and deportation processes. Viewing the airplane as a mobile and extraterritorial space of carcerality for citizens, however, poses a different set of questions. For one, why do the citizenship rights of naturalized or dual citizens collapse so easily under accusations of terrorism or criminality, in which the legal standard of evidence that is required to lay criminal charges does not always apply? How does one form of stuckedness devolve so quickly into other manifestations of mobile, delocalized and extraterritorial stuckedness through removals, deportations or extraordinary rendition?

One possible explanation may be found in the way that stuckedness is rendered publicly indiscernible in many of its stages. Muslim travelers who become stuck at the airport often disappear into the recesses of secondary screening areas. For those who do not reappear, new levels of stuckedness can immediately take effect. Whether they are detained at airports, taken to detention centres or boarded on airplanes for deportation, they become part of a set of removal processes that are intended to conceal acts and instances of stuckedness from the public. Although the transfer of people from major international airports to Canadian detention centres occurs away from the eyes of the traveling public, this level of concealment does not always exist with those who are deported by airplane.

As Walters observes, the guidelines issued by the International Air Transport Association go to great lengths to "manage the visibility of the deportee in the eyes of other passengers" (440). Some of these guidelines include taking precautions to pre-board deportees and their escort(s) to minimize public attention, seating them at the rear of the airplane in economy class, and reducing the visibility of physical restraints on deportees who require them so that they do not draw unwanted public attention (440). With the introduction of the charter flight program, some deportees are removed on airplanes that are utterly devoid of other passengers, maximizing the degree of invisibility through the absence of any systematic monitoring or accountability (448). When the stuckedness on board commercial or chartered deportation ends, an unknown and precarious stuckedness awaits deportees at their destinations. At this stage of the process, the state that initiates

the removal process wipes its hands clean of the citizens and non-citizens they have abandoned, in hopes that they will forever remain invisible.

Given the removal proceedings the state can take against some of its citizens, the process of waiting at the airport can become a serious crisis. For example, the Al-Rawis, a Canadian Muslim family on their way to Disney World in 2015, arrived at Toronto Pearson International Airport three hours ahead of their scheduled flight. After being fingerprinted and photographed twice, interrogated by US customs officials and having their electronics seized, the Al-Rawi family was denied entry into the US (Keung). While Firas Al-Rawi, an emergency room doctor at Toronto General Hospital, was interrogated away from his family by US customs officials about the purpose of his trip to the US, including previous family trips to Qatar and Dubai, his wife and three children waited in a public area (Keung). Although Al-Rawi admits that he and his family "'had nothing to hide…[they] were not prepared for the rest of it. [They] were stressed, not knowing what was going on'" (qtd. in Keung). As Al-Rawi tells Carol Off, host of *CBC Radio*'s "As it Happens," "'[t]he whole experience was very traumatic. And then there's no recourse. There's like, there's no way that you can complain…It's almost like they had made up their mind as soon as they saw us'" ("As it Happens"). For the Al-Rawis and other Muslim families and travelers, time spent in the airport waiting can be both traumatic and life changing.

This is made all the more urgent with Canada's Preclearance Act, 2016. Under section 10, US preclearance officers in preclearance areas and perimeters at Toronto

Pearson International Airport and other Canadian airports, have the power to exercise "the duties and functions conferred on them under the laws of the United States on importation of goods, immigration, agriculture and public health and safety" (Preclearance Act 5). These powers also permit US preclearance officers on Canadian soil and at Canadian airports to detain Canadian citizens and their goods if they have "reasonable grounds to believe that a person has committed an offence under an Act of Parliament" (6). As part of the general powers granted to them under section 20, US preclearance officers may also collect biometric information from travelers bound for the US (9). Under section 22, if these officers have reasonable grounds to suspect that travelers may be concealing goods, they may also conduct strip searches of Canadian citizens (9). Although US preclearance officers are required to transfer detained individuals and their goods to Canadian police or CBSA officers as soon as possible (6), that does not diminish the reality of what has become for some naturalized Muslim and dual-citizens, a widely cast net of potential transnational stuckedness, capable of ensnaring Canadians within their own geographical and national borders according to US law.

As Walters has shown, crises of waiting at the airport to board an aircraft are not strictly confined to the interior space of the airport. These crises of stuckedness follow some Muslim travelers from inside the airport to inside the airplane. In 2006, Ahmed Farooq, a Canadian Muslim doctor from Winnipeg, Manitoba, was escorted off an airplane in Denver, Colorado, after another passenger allegedly interpreted the reciting of his evening prayers in Arabic as suspicious activity ("Muslim Doctor"). More recently in

2016, Khairuldeen Makhzoomi, a twenty-six year old student at the University of California, Berkeley, was escorted off a Southwest Airlines flight in Los Angeles, California, prior to takeoff, after calling his uncle in Baghdad, Iraq, and having his conversation in Arabic interpreted as potentially threatening by members of the flight crew (Hassan and Shoichet). Evidently, for Muslim or Arab-speaking passengers, the possibility of stuckedness persists even after they have passed through the airport's security and screening checkpoints.

On the airplane, where every passenger has already been cleared to fly by the airport's security and surveillance infrastructure, the surveillance of Muslim passengers is taken on by others on board the aircraft. Within the confines of the airplane, where the spatial, physical and psychological dimensions of stuckedness are magnified for everyone on board, including passengers and crew members, anxieties are once again heightened through post-9/11 processes of racialization. Passengers that are identified through the gaze of other passengers or crew members as Muslim or Arabic by race, language or other outwardly perceived markers of 'Muslim-ness,' are read as suspicious and threatening. Their bodies are deemed not to belong on the airplane and, as a result, are targeted for removal or exclusion, both from the aircraft and from their prospective destination countries.

The governmentality of unease exercised by the state in the airport morphs into a highly interpretive and individualized mode of self-care on board the airplane. In fact, we can extend and apply the anxiety of stuckedness quite differently within the confines of

the airplane. Rather than seeing the concept applied to the marginalized subjectivities of Muslim travelers, we can apply the concept, in these instances, to the dominant subjectivities of non-Muslim or Arab-speaking passengers. Guided by the same anti-Muslim narratives and racialized knowledges that have given rise to the racial profiling of Muslims within the airport, passengers and crew take it upon themselves to impose their own preemptive forms of profiling on board the airplane. Similar to border officers, passengers or crew are under no legal obligation to justify the motives behind any acts of profiling they take on. The safety and security of dominant subjectivities are deemed paramount, and the accusations that are levied by them are often upheld without question. The safety and security of Muslim or Arab-speaking passengers are thus malleable, contingent on the demands and unfounded accusations of mostly non-Muslim passengers or crew members.

While the simple act of speaking Arabic on an airplane can render a Muslim or Arab-speaking passenger stuck and immobile at the airport, it can also empower dominant subjectivities with a means of avoiding being stuck on an airplane with bodies they consider as potential sources of stuckedness. In addition to the racial and religious factors that often fuel majoritarian claims, and in a bid to prevent their own form of potential stuckedness on board airplanes, these passengers or crew members create further opportunities of stuckedness for Muslim or Arab-speaking passengers. As the anxiety of "whiteness becomes less settled and more vulnerable, especially as the idealized and desired 'how it used to be' nation" (Zine 46), which is embodied by those who reproduce

its ideologies on the airplane, the police or border authorities can remove Muslim or Arab-speaking passengers from airplanes as safety precautions without any legal objections or repercussions.

Racial, religious and cultural differences often serve as key indicators for passengers or crew members to enforce their own distinctive rules, boundaries and understandings of what constitutes citizenship. As Evelyn Nakano Glenn notes, processes of racialization that shape acts of institutional and non-institutional racial profiling occur "not just through formal law and policy but also through localized practices, as men and women in their daily lives have enforced and challenged rules and boundaries that maintain distinctions" (236). These racial distinctions often pivot around the notion of substantive citizenship, defined by Glenn as "the actual ability to exercise rights of citizenship" (53). For Glenn, substantive citizenship involves two key issues: the first is the capacity to exercise the rights that one is formally entitled to through the law and policies; the second "has to do with enforcement or lack of enforcement of formal citizenship rights by the national, state, or local government or by members of the public" (53). The latter of these issues is particularly transparent in the profiling of Muslims within the enclosure of the airplane, where non-Muslim citizens intervene to undermine the freedom that Muslim citizens have to exercise their own rights of citizenship. As is the case in the airport, citizenship for Muslim passengers on board the airplane, including those who are read as Arab through language or other perceived identifiers, is "molded by the efforts of dominant groups seeking to enforce their own definitions of citizenship and

its boundaries" (55). The exercise of this imbalance in power validates, privileges and reinforces dominant voices and subjectivities in the process of silencing others.

The airplane and the airport are spaces that create and sustain differential racial and power dynamics. For some, these spaces provide a degree of comfort or diversion from the more commonplace anxieties that are often associated with the airport or airline travel, such as flight delays or fears of flying. For others, though, these spaces not only exacerbate some of the commonplace anxieties that are shared by many travelers despite race, religion or ethnicity, they also exacerbate more carceral-based anxieties of stuckedness that result from acts of profiling or removal. In fact, what constitutes crises scenarios in airports for some Muslims are crises that many non-Muslims may never encounter by virtue of their race, religion, ethnicity or place of birth. In a space where waiting times and delays are rather common, and where waiting for some Muslim travelers can be emotionally, mentally and physically detrimental, the anxiety of stuckedness can only be overcome or alleviated for more privileged travelers.

Justine Lloyd argues that "the urban traveler is invited to use transit time to accumulate useful experiences of leisure and work" (94). For Mark B. Salter, these type of travelers make up what he calls the "kinetic elite" (11), travelers whose waiting time in the airport can be mitigated by treating the airport as a space of leisure and consumption. For the urban traveler or the kinetic elite, airport anxieties can be tempered by the notable shift in airport architecture, a shift that has seen the airport transition into more of a modern shopping centre (3). In the competitive budget airline industry that seeks to attract

more travelers by driving down prices through the reduction of airport landing fees, airports have turned to retail as a way of generating more revenue from non-aviation sectors (7). The turn to non-aviation sector revenues is one that hinges on the notion of the more privileged traveler for whom the airport can be seen and experienced as a shopping mall and less as a carceral site of anxiety and stuckedness. The transition of the airport from one that facilitates mobility to one that makes use of immobility as a source of revenue, is apparent in the array of airport expansion projects seen across Canada. Whether we consider shopping at McArthurGlen Designer Outlet Vancouver Airport for high-end European and North American brands, or sitting down for a manicure, massage or teeth whitening session at Toronto Pearson International Airport, time and waiting for the urban traveler or the kinetic elite is experienced differently from those for who the airport is an experiential space of precarity.

Following 9/11 and the ongoing 'war on terror,' Lloyd contends that fears and anxieties about the airport and flying are placated "through the introduction of a level of homeliness in the waiting zone…encapsulated in the concept of *dwelltime*" (94). In these spaces, where security and surveillance have also been intensified, waiting is characterized by a homely sense of comfort and "livability" (94). For some privileged travelers, the airport can be a homely place where work, leisure and consumption encapsulate the concept of dwelltime. As is the case in shopping malls, where consumers are driven primarily by acts of leisure and consumption, surveillance technologies are often designed and built into the facilities themselves (Lyon, *Surveillance Studies* 108).

This is also the case in major international airports, specifically where video surveillance is concerned. In this view, spaces that combine surveillance technologies with leisure and consumption operate as "surveillant playspaces" (108).[31]

For airport planners and managers, privileged travelers are of primary import, since their waiting or stuckedness translates into potential streams of revenue that may be lost. It is their metrics by which airport costs and efficiency are accurately tracked, recorded and measured. As Salter observes, the investment of global hub airports "in infrastructure such as shops, cinemas, spas, hotels, gardens, churches, and medical facilities," is prioritized so that any traveler "dead-time" can be converted and "quickly soaked up by the institutions of social and commercial life" (12). Although not explicit in Lloyd's or Salter's accounts, time spent in these spaces is also indirectly associated with racist and classist implications that link dead time—or waiting in the airport without actively consuming—with a reduced capacity to use such time for leisure and consumption. For some Canadian Muslims, the airport and its consumer-driven waiting zones do not function as coping mechanisms by which post-9/11 anxieties can be alleviated. While all travelers can view the airport as a space that facilitates travel, leisure and consumption, as well as a space of increased anxiety in the post-9/11 era, the subject position of Muslim travelers makes it less likely, although certainly not impossible, to view and experience the airport as a space of leisurely consumption. Evident with Nagra's

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[31] This chapter will later address how the airport also makes use of surveillance technologies that are normalized by their use and visibility, such as Primary Inspection Kiosks and connected mobile devices belonging to travelers.

and Maurutto's study, the profiling experienced by Canadian Muslims at the airport is less likely to be considered as a space in which Muslim travelers can feel at home.

These spaces of stuckedness have also expanded outside the airport's designated security and surveillance zones. Airports use more informal but organized ways of expanding their surveillance operations through civilian bodies. Beginning in 1999, the Ottawa International Airport Authority developed Canada's first Airport Watch Program in collaboration with Ottawa Police Services and the RCMP ("Our History"). The program, which uses the motto "Observe, Record and Report," consists of volunteers who "monitor general aviation procedures, the condition of the fencing, wildlife activity, parking lots, suspicious behaviours and foreign object debris (FOD) while they enjoy their favorite pastime" ("Our History). At Toronto Pearson International Airport, YYZ Airport Watch was formed in 2004 by a group of volunteers that began as aircraft enthusiasts ("Our Mandate"). Recognized by the GTAA, Peel Regional Police and the RCMP, the volunteers are tasked with enhancing security of the airport's perimeter by "[o]bserv[ing], [r]ecord[ing] and [r]eport[ing] any suspicious activity to [the] airport Security Operations Centre (SOC) or other appropriate airport authorities" ("Our Mandate"). Likewise, the Airport Watch Program at Vancouver International Airport operates as "a volunteer, community-based initiative, modelled after Neighbourhood Watch, that seeks to improve the safety and security of [the] airport by engaging active community members" ("Airport Watch").

The expansion of the airport's security and surveillance infrastructure also includes ordinary airport employees. As a 2017 Toronto Person Safety Program Newsletter outlines, "[a]ll employees play a role in maintaining the safety and security of [the] airport. If you see something out of the ordinary, do not hesitate to report it. Never assume someone else has reported it or that it is not your responsibility" ("Eye on Safety"). In a program known as "Suspicious Sam," employees at Toronto Pearson International Airport are called upon to remain "vigilant and aware of [their] surroundings in the terminals," and those who "are successful at noticing and reporting something suspicious…could be awarded a $25 gift card" ("Eye of Safety"). Although what constitutes something out of the ordinary or something suspicious remains unclear, one may at least infer the evocation of race, ethnicity and/or religion already present within the airport's existing culture of security and surveillance.

The Suspicious Sam program creates a neoliberal framework in which all employees, regardless of pay, salary or position, are required to take on the labour of those who are formally tasked or employed as part of the airport's official security and surveillance apparatuses. The program serves to implicitly threaten the job security of airport employees not directly involved in security and surveillance. As the safety and security of the airport is individualized and becomes the responsibility of all airport employees, the Suspicious Sam program "actively test[s] [their] security awareness at any time of the day or night" ("Eye on Safety"). In a work environment where the persistent and looming threat of airport security breaches falls on the shoulders of employees

outside the security and surveillance sector, all employees are required to facilitate the responsibilities of both the jobs they are paid to do and those for which they are not paid. By failing to take on the latter of these responsibilities, it is not the negligible monetization of the Suspicious Sam award that motivates airport employees to take on the work of safety, security and surveillance, but the production of neoliberal conditions that compromise their job security should they fail to contribute to the safety and security of the airport.

The Racialization, 'Facialization' and Immobilization of Airport Surveillance

Although safety, security and surveillance have expanded to include many airport employees and members of the public, the securitization of the airport has increasingly become more reliant on the use of modern biometric technologies. However modern these technologies appear to be upon first glance, they are rooted in extensive, violent and racist histories of British colonialism and the transatlantic slave trade. As Bernard S. Cohn writes, the British in India "felt most comfortable surveying India from above and a distance…They were uncomfortable in the narrow confines of a city street, a bazaar, a *mela*—anywhere they were surrounded by their Indian subjects" (10). In what Cohn refers to as "the colonial sociological theater," where colonizers assigned the colonized specific roles to play, the British viewed categories of the Indian population who did not prescribe to their given sociological order as threats in need of surveillance and containment (10). For those who the British regarded as drifting beyond their civil

boundaries (10) or those, in general, who were suspected of transgressing the cultural, political and legal precepts of British India (11), the idea of a technological system by which these groups could be recorded, classified and distinguished as individuals according to a set of permanent physical features took flight (11).

Simon A. Cole observes that existing systems of photographic classification proved to be inefficient and overwhelming for the agents of the East India Company, considering India's geographic size and population (63). To this end, William Herschel, a civil servant in India, and Sir Francis Galton, the father of eugenics, worked with Indian police officers to devise a new "system of classification that made possible fingerprinting as a means of identifying individuals" (Cohn 11). It is no coincidence, however, that the birth of the colonial, biometric fingerprinting system in India occurred alongside the Sepoy Mutiny in 1857 (Cole 63). Galvanized, in part, "by rumours that the grease that lubricated their rifle cartridges contained beef and pork fat—thus violating the dietary laws of both Hindus and Muslims," the Sepoys, Indian conscripts, rebelled against the British and seized control of Delhi, before being defeated by British troops in 1858 (63-64).

While the Sepoy Mutiny served as a reminder to the British of how fingerprinting systems could be used for the control and surveillance of colonies deemed too unruly (64), the creation of Herschel's fingerprinting system began as a technique for civil rather than criminal identification (Cole 65). Although the Sepoy Mutiny undergirded the colonial system of fingerprinting that followed, it was Herschel's and other colonial

officials' belief that "natives were collecting government pensions by impersonating deceased pensioners" (64). But even in its civilian context, the colonial system of fingerprinting was mired in racism. As a technique of civil identification, the colonial fingerprinting process "assumed inferiority of the ruled and their attendant deceptions and frauds [and] provoked the search for greater and more efficient social control and identification" (65). In both cases, the use of fingerprinting to suppress civil and criminal activities was based on the assumption that deviance or criminality, as far as the British were concerned, was written and readable on the colonized body.

The fingerprinting system that was later modified in 1893 by Henry Edward, Inspector General of Police of Bengal, and by Sub-Inspectors Azizul Haque (Sengupta) and Hemchandra Bose, came to be known as the Henry Classification System. Henry's system allowed the police to efficiently sort through fingerprint records that included "[a]nthropometrical data, in the form of cranial radii, nasal indexes and finger length" (Sengupta). These categories of anthropometrical data were then used and "tested for their utility in developing the science of criminology, often aided by an ethnographic discourse that constructed an elaborate taxonomy of criminal tribes, deviant populations, and martial races" (Sengupta). In short, the collection and analysis of colonial biometrics made criminality ethnic (Cole 67).

Under a different system of biometric classification and sorting, Simone Browne discusses the use of branding during the transatlantic slave trade. In this period, captive Black bodies were branded with a burning iron and reduced to "commodities to be

bought, sold, and traded" (93). As far back as the seventeenth century, the brand, which at times included the crest of the colonizing power or other alphanumeric characters, represented the relationship between Black bodies and their owners (93). Browne argues that not only was blackness made "visible as commodity and therefore sellable…a dehumanizing process of classifying people into groupings, producing new racial identities that were tied to a system of exploitation" (94), the spatial dynamic of the slave trade made branding part of the larger carceral system (95). As Browne explains, "the barracoon, or slave barracks, was a slave factory where the surgeon's classificatory, quantifying, and authorizing gaze sought to single out and render disposable those deemed unsuitable, while imposing a certain visibility by way of the brand on the enslaved" (95). Branding and the slave trade made distinctions between segments of African populations, which framed Black bodies that were not suitable for plantation work as more disobedient than others and, therefore, more expendable (95).

Browne suggests that we view modern biometric technologies as systems that mimic colonial biometrics. The advent of biometric systems and technologies at the airport, including digital fingerprinting, facial recognition, iris and retinal scans, claim to render race invisible through algorithmic and computational processes. But as Samir Nanavati, Michael Thieme and Raj Nanavati's performance testing of fingerprinting and facial recognition systems reveals, prototypical whiteness is harnessed in the development of current biometric systems and technologies. In their comparative testing of fingerprinting technology, the elderly, construction workers, those in the skilled trades

and those of Pacific Rim descent, experienced an increase in the likelihood of failure-to-enrol (FTE) rates (Nanavati et al. 36). FTE rates or, more simply put, the number of attempts it takes to enrol in any given biometric system, indicate how "illegible bodies" (Murray 98) are rendered as non-normative. The performance testing of facial recognition technologies is even more telling, as FTE rates are more noticeable with "dark-skinned users…not attributable to the lack of distinctive features, of course, but to the quality of the images provided to the facial-scan system by video cameras optimized for lighter-skinned users" (37). As Nanavati et al. observe, some facial recognition systems are not technologically "optimized to acquire darker faces" (66).

Beyond the prototypical whiteness that is built into biometric systems and technologies as the normative standard by which all others are judged, those whose biometrics are not recognizable by these systems and technologies can be seen as aberrations or as "human monsters" (Foucault, *Abnormal* 56; *Discipline* 101). Heather Murray notes that "[t]he same discriminatory codes that have historically produced the abnormal as 'monstrous' have produced biometric bodies" (107). In biometric systems, abnormality as monstrosity is registered as a product of illegibility. The fingerprints of the elderly are too faint to read; those of manual labourers are too callous; and bodies with darker skin are too 'deceptive' for facial-scan systems to recognize (107). These biometric systems can serve to bridge cultural notions of abnormality with an automated and technological means of detecting it.

The development and implementation of biometric systems and technologies in the post-9/11 airport, produced biometric systems that became tangible extensions of both the securitization of the state and the securitization of the western, cultural imagination. In particular, the emergence of facial recognition systems became integral components to the 'war on terror,' both domestically and globally. By using algorithms to identify the racialized 'faces of terror' from a host of transnational, facial-image databases, facial recognition systems were instrumental in establishing the business of detecting abnormality. As Kelly A. Gates argues, although players in the information technology sector were already developing network security systems long before the attacks on 9/11, it became quickly apparent that the attacks "would be a major boon to providers of security systems and services, an industry deeply connected to the information technology sector" (99). The discourse that immediately followed 9/11 was structured around the indispensability and necessity of biometric systems and technologies to the future security of the airport and the state.

It is here that facial recognition systems surfaced as biometric technologies and solutions that "would ostensibly provide an accurate, objective, precision-guided means of identifying the faces of terrorists as they attempted to pass through airport security, border control stations, and a proliferation of other checkpoints" (101). Lisa Nakamura argues that the events of 9/11 created a fixation with biometric systems as digital gatekeepers of identity and security (204). These systems divested some of the profiling and surveillance capabilities previously ascribed to human operators by reconfiguring acts

of profiling and surveillance as not only digital, algorithmic processes (202), but as "socioalgorithmic process[es]" in which race became both a visual spectacle and invisible data, "something to be both seen and processed" (206). Gates explains that while facial recognition algorithms were not specifically designed to classify the faces of terror according to racial typologies, the discourse of the "facialization" of terrorism was based on the premise "that it could in fact be used to identify a mythic class of demonic faces that had penetrated the national territory and the national imagination" (101).

Essential to understanding biometric systems as socio-algorithmic processes is discerning their relationship to their respective databases. Facial recognition systems designed to identify the faces of terrorists could only do so by comparing facial images captured in real-time to those already stored in the archives of existing facial image databases. The question of how algorithms capture and digitize the faces of terrorists is indeed a critical one, as is the question of how databases are populated in the first place. For Gates, these questions are paramount to understanding how facial recognition systems and databases are constructed (102), populated and co-dependent, further perpetuating anti-Muslim tropes in the discourse of terrorism that are so prevalent within the airport. They also reveal the social and political forces that often shape and govern the form and content that such databases take on (102).

Nakamura argues that bodies are transformed into "digital media object[s]" whose identity formation and management through databases is part of a political project, one that operates in ways which "are less visible than they have ever been in their actual

workings, yet more intensely visible in their effects" (207). Consequently, decisions as to which bodies and identities must be screened, securitized or surveilled through biometric systems, technologies and databases, are made through socio-algorithmic processes, "informed by both acts of [visible] seeing and acts of [invisible] database usage and machinic data processing" (208). In the post-9/11 context, the face of terrorism that became synonymous with the socio-algorithmic processes embedded in facial recognition systems was that of the dangerous Muslim.

As images of Osama bin Laden and those of the alleged hijackers circulated and flooded the media, this face of terror trope was used by Visionics Corporation[32] to position "facial recognition technology as a solution to airport security" (Gates 107), as well as a solution to potential and future acts of aviation terrorism. In a document titled "Protecting Civilization from the Faces of Terror," Visionics called on international intelligence agencies to build the databases necessary to house and track the faces of individual terrorists by compiling covert photographs and videos amassed by intelligence operatives around the world (110-111). Using their own facial recognition software called "FaceIt," Visionics requested the creation of networked, transnational databases that would "provide an archive of terrorist identities for matching against facial images captured at airports and ports of entry" (111). Not only did their requests for the consolidation of terrorist watchlists and databases become a primary concern for

[32] Visionics was a private company that provided biometric identification systems and services to government and law enforcement agencies in the US.

governments and law enforcement agencies in airports following 9/11, what appeared to be "an ostensibly objective definition of the terrorist identity occurred under the veil of empiricism and technical neutrality that the image of the database[s] afforded" (121).

The socio-algorithmics involved in the creation and implementation of biometric systems and databases are part of a larger digital, biopolitical project with corporeal implications. As Gates contends, the racialized and "*virtual* face of terror serves a key biopolitical function, brandished as a weapon to justify state racism and define the war on terror as a virtuous one" (122). The biometric machines and the (socio-)algorithmics that serve as the racial catalysts for biometric systems, equip the airport's security and surveillance apparatuses with material and immaterial weapons that reinvigorate the pursuit of the state's biopolitical project. However, what distinguishes this biopolitical pursuit from others in the past is not merely its attempt to conceal state racism within claims of technical neutrality but, rather, its attempt to transition from the visible and physical control and management of racialized bodies to the invisible and digital-based control and management of those bodies.

In some ways, we can see quite clearly how the race-based control of the airport mimics the control and management of bodies in traditional carceral institutions. This is particularly evident when we consider how Muslim travelers in the airport are more prone to the "confiscation of mobility" (Gill 20), a deprivation of freedom associated more closely with prisons than with airports. Walter Bliss Carnochan argues that the prevailing theme of the prison is confinement that "restricts the free movement of body or

mind" (381). To this, Nick Gill adds that since mobility is seen as one of the fundamental aspects of freedom, the restriction or elimination of it is understood as a form of incarceration (20). Given that definitions of incarceration or confinement revolve around one's ability to freely move from one place to the next (Gill 20), the space of the airport is carceral by nature, preventing the free mobility of all travelers while targeting specific travelers for carceral procedures, which are more in line with those exercised in conventional carceral institutions.

If definitions of the carceral also include the confinement of the mind, as both Carnochan and Gill contend, then the anxiety of stuckedness experienced by Canadian Muslims at the airport constitutes more than a temporary state. It is an anxiety that does not simply resolve itself once the physical source of the anxiety is removed. The anxiety of stuckedness endures inside and outside the space of the airport as a form of cognitive confinement, restricting the free mobility of the mind rather than just the free mobility of the body. Because the carceral is experienced as both mental and physical properties, its effects are not limited to the physical space in which they are produced. Hence, incarceration or confinement must also be understood "independent of physical restriction" (27). In turn, this suggests that any manifestation of confinement that is not strictly prison-based may be equally constraining (27).

While the airport foregrounds the relationship between technology, space and race, it also underscores the relationship between technology, mobility and race. The mobility of Muslim Canadians in and out of the airport is inextricably linked to the

post-9/11 movement and migrations of Muslim populations, nationally and transnationally. As Rana explains, "the idea of migrating terror is encapsulated in the set of rationales that underlies the policing of labor migration and of immigrant communities" (6). The movement of Muslims across borders or through airports is associated with Rana's idea of migrating terror, not fused to the idea of freedom through travel but, instead, fused to the idea of restricting freedom by reducing or altogether eliminating travel.

The launch of the Passenger Protect Program (PPP) in 2007, essentially Canada's version of the US No Fly List, was designed to prevent aviation terrorism by halting known terrorists from boarding airplanes. As an air passenger security program, the PPP was designed to screen commercial flights and mitigate threats of specified individuals who attempt to board an aircraft ("Passenger"). Maureen Webb discerns that this program and others that have preceded it rely on the technological and digital automation of risk assessment, using data-mining techniques and "computer algorithms to sort through personal information and identify the risk posed by travelers" (155). The PPP, which since 2011 is operated by Public Safety Canada and Transport Canada, works with other federal departments and agencies "to list individuals on the Specified Persons List if there are reasonable grounds to suspect they pose a threat to transportation security" ("Passenger"). Faisal Bhabba, legal adviser and chair of the National Council of Canadian Muslims, suggests that the PPP is fraught with systemic discrimination that falsely and disproportionately targets Canadian Muslims (Behrens). As a system that is "built on

names rather than on unique identifiers…Canadians who simply share the name of someone considered a [terror] threat are wrongly caught up in the system" (Nasser).

Although names do not qualify as biometrics per se, they do constitute a critical component of verifying one's identity at the airport. Names, dates of birth and passport numbers—identifiers that have all preceded the implementation of airport biometric systems and technologies—are essential data that biometrics often rely on as tokens of trust. Fingerprinting, facial and iris recognition are biometric ways of authenticating and verifying the identities of some travelers, yet they remain anchored to non-biometric information such as names and dates of birth. While the PPP has made thousands of false positives across Canada, including citizens with non-Muslim or Arabic sounding names, the program has also identified hundreds of Canadian children that it deems high-profile risks to transportation security, many of whom happen to be Muslim (Nasser). As is evident with cases like six-week-old Sebastian Khan, ten-week-old Naseer Muhammad Ali, six-year-old Syed Adam Ahmed ("No-fly") and numerous others, the PPP flags Canadian Muslim children as potential terror threats without any reasonable grounds to suspect they pose any threats to transportation security. In this process, Canadians that are falsely flagged as threats to transportation security by virtue of their names, have their mobility rights compromised—rights that are granted to them under section six of the Canadian Charter of Rights and Freedoms.

In the delocalization of mobility, a more expansive and permanent iteration of the anxiety of stuckedness takes shape. No longer a consequence of profiling within the space

of the airport, the profiling deployed by the PPP occurs in more nebulous spaces, where the presence of physical spaces and bodies are no longer required. Although the source of anxiety remains rather similar, made up in large part by issues of mobility, the feeling of stuckedness is paradoxically intensified by the absence of human operators and discretion. In other words, those who are profiled by the PPP find themselves indeterminately and indefinitely barred from airline travel as a result of algorithmic processes. As the prospect of becoming unstuck is dramatically diminished by the lack of tangible recourse available in having one's name removed from the no-fly list (Sagan), the feeling of stuckedness or confinement within one's own country is amplified.

In addition to being placed on the Canadian No Fly List and rendered stuck, Canadian Muslims can also be rendered immobile in their own country by non-Canadian agencies. Abousfian Abdelrazik, a Canadian Muslim with dual citizenship in Sudan, was not only placed on the Canadian No Fly List after being suspected of having links to terrorism by the Canadian Security Intelligence Service (CSIS), he was arrested by Sudanese security forces in 2003 while visiting his sick mother in Khartoum, Sudan (Koring). On the brink of his return to Canada on 20 July 2004, handwritten margin notes found in CSIS documents confirmed that Abdelrazik had been identified as a danger to national security (Koring). Over the course of twenty-four hours, Abdelrazik's scheduled flights to Canada through Lufthansa Airlines and Air Canada were abruptly cancelled (Koring). In 2009, after "five years in forced exile–more than two in prison and more than a year in the lobby of the Canadian embassy in Khartoum–while the Canadian

government refused to give him a passport to fly home," the Federal Court of Canada implicated CSIS in the direct or indirect arrest and imprisonment of Abdelrazik (Koring). As the "Canadian Eyes Only" CSIS documents obtained by *The Globe and Mail* reveal, not only was CSIS involved in Abdelrazik's arrest and detention in Sudan, they were also involved in the Central Intelligence Agency's attempt to have Abdelrazik transferred to the detention camp in Guantanamo Bay (Koring). Only after the issuance of Justice Russel Zinn's federal court order was Abdelrazik issued a temporary passport and allowed to return to Canada (Koring).

Abdelrazik's stuckedness overseas and at home were compounded by being placed on the US No Fly List and on the United Nations Security Council's 1267 terror blacklist. Falsely accused and branded as an al-Qaeda operative, Abdelrazik had his assets in Canada frozen for seven years (Banerjee). He was not permitted to conduct any banking without a government certificate, nor was he permitted to be employed or collect government child benefits without a lawyer (Banerjee). While Abdelrazik's name was eventually cleared by CSIS, the RCMP and, more recently, the UN, he still remains on the US No Fly List and the US Treasury List, meaning that he cannot fly through US airspace or hold a US bank account (Banerjee). Abdelrazik's experience as a Canadian Muslim is a testament to how stuckedness has also become an instrument of transnational, governmental power. Wielded against some citizens, it can render them immobile, both inside and outside their own countries, and it can divest them of their legal rights and freedoms to mobility. As the only Canadian who lives with the stigma of being on the UN

terror list, Abdelrazik remarks, "'I walked the streets, but I was in prison'" (qtd. in Banerjee).

The Airport's Biometric Turn

Nikolas Rose suggests that when a space undergoes a paradigmatic shift in the name of safety and security, new strategies of crime control and management emerge (329). Within the airport's security and surveillance infrastructure, strategies of crime control and management have largely been implemented and (dis)embodied using biometric technologies as the panacea for problems of identity securitization. As the Minister of Public Safety and Emergency Preparedness Ralph Goodale notes, "[b]iometrics are a reliable and accurate tool to confirm the identity of legitimate travelers… streamlin[ing] the entry of genuine travelers, identify[ing] those who pose a security risk and stop[ping] known criminals from entering Canada" ("Canada Expands"). Through biometrics and dataveillance, bodies are transformed into datasets that can be algorithmically sorted and analyzed. Louise Amoore argues that much of the allure for biometric systems is "derive[d] from the human body being seen as an indispensable anchor to which data can be safely secured" (342). In discourses of national, airport and border security, in which Goodale describes the capacity of biometrics to identify legitimate travelers, biometric systems are also symbols of infallibility as "the ultimate guarantors of identity" (343). Still, Amoore contends that the process of identification

cannot always be reduced to identity, since identity itself is never a fixed or stable concept (344).

In biometric systems, the notion of identity is frequently streamlined according to physiological characteristics. Identification, authentication and verification of identity through biometric systems, whether at airports, border crossings or elsewhere, become a matter of comparing and matching corresponding physical identifiers from the body to those stored in existing digital or electronic databases. Within the airport, bodies with biometric identities are seen and acknowledged as more trustworthy, whereas those without biometric identities, or bodies that are unreadable by biometric systems, take on the designation of being less trustworthy. Since the latter group of travelers are not biometrically anchored to the airport's security and surveillance apparatuses, their bodies and identities are seen to pose more of a risk to airport and border security. The body of the untrusted traveler is untrusted precisely because it is merely corporeal. The irreducibility of the untrusted traveler's identity to digital or electronic biometric tokens of trust, makes this traveler less secure by making them biometrically unverifiable.

As part of the ongoing push for more biometric systems at Canadian airports, Toronto Pearson International Airport recently introduced the Primary Inspection Kiosks (PIKs). In place at most international airports across major cities in Canada, including Vancouver, Montreal, Halifax and others, the CBSA and airport authorities began deploying the PIKs in March 2017, as a means of phasing out the older Automated Border Clearance (ABC) kiosks ("Executive Summary"). Developed out of recommendations put

forth by an Air Traveller Task Force in 2013, with a mandate to project future changes in the CBSA's operational environment, the PIK emerged as a biometric technology that would "assist in reducing wait times and congestion at Canada's busiest airports" ("Executive Summary"). According to the CBSA, the main components of the PIK initiative include: eliminating the paper declaration card known as the E311; using facial recognition software to match passport photos of passengers to those taken at PIKs; and validating ePassports for authenticity ("Executive Summary"). The PIK-passenger interaction process is described by the CBSA as follows:

> Upon arrival in Canada, travelers will be directed to PIK, where they follow the on-screen instructions to complete their primary processing session including scanning their passport, presenting for a photo (facial image capture) and answering a series of required customs and immigration question. When all system queries have been completed and the traveler 's on-screen declaration has been finalized and submitted, PIK will print a receipt for the traveler (s) for use by CBSA personnel throughout the CBSA Hall. All PIK receipts will be collected by CBSA officers before travelers exit the secure area. ("Executive Summary")

As is evident from this description, the PIK process is one that is designed to apparently expedite the mobility of all travelers through the airport.

This claim is additionally supported by airport authorities, including the GTAA. In a 2016 report entitled "Toronto Pearson Airport: Growing Canada with a Mega Hub Airport," the GTAA identified one of the main problems that passengers have with

security screening is not the profiling and discrimination that some travelers experience, but the dissatisfaction with the wait times at security screening points, which are "significantly longer than at many other major international airports" (13). The report details that during certain peak times, over fifty per cent of passengers experience wait times longer than twenty minutes at pre-board screening points, when compared to London Heathrow and Hong Kong International Airport, where ninety-five per cent of passengers are processed in under five minutes (13). These disproportionate wait times are a concern at Toronto Pearson International Airport for two likely reasons. The first is that wait times negatively impact the travel experience of passengers through the airport. The second, as has been noted, is that delays in security screening limit opportunities for generating non-aviation sector revenues. As the report points out, "[t]here is value in the time lost in security lines…the current state of security screening at Toronto Pearson may act as a drag on the airport's growth potential and its ability to generate additional non-aeronautical revenue through retail, food and beverage" (14).

In the same report, dissatisfaction with wait times and economic growth are used as criterion for requests of increased federal government funding. Along with requesting two million dollars in funding for the addition of "new CBSA officers in order to meet a standard of 90 per cent of passengers screened in 20 minutes or less," the GTAA budget makes additional funding requests for the Canadian Air Transport Security Authority (CATSA) in the amount of twenty million dollars, as a way of meeting the demands for faster screening processes (5). The series of budgetary requests and recommendations

also include sixty million dollars in capital funding "to implement new technology (called CATSA Plus)…to significantly improve passenger throughput at every screening line" (5).

By reducing the need to expedite mobility through the airport to matters of passenger satisfaction and wait times, these reports lose sight of who is and who is not considered as a passenger worth expediting. Based on the image of the race-less traveler whose race, ethnicity and/or religion are divorced from their experiences at the airport, passenger (dis)satisfaction is measured by wait times in security screening lines. The desire to mitigate security screening wait times stems primarily from a desire to maximize the value of passengers as prospective consumers. The deployment of a neoliberal ethos that assigns value to passenger experience based on the merits of their consumption potential, views some passengers as integral and indispensable sources of revenue at the airport. After all, "[t]he longer the wait time, the less attractive it is to fly through Toronto Pearson" (14). Conversely, passengers who are repeatedly marked by human and non-human operators for additional screening at security checkpoints, might also be seen as obstacles to additional airport revenue, problem identities that have to be dealt with in order for the airport to optimize its aviation and non-aviation sector revenues.

In yet another iteration of stuckedness, Muslim passengers may not only be perceived as sources of physical stuckedness that can cause travel delays for other passengers, they can simultaneously be perceived as sources of both operational and revenue-based stuckedness for the airport. The relationship between those who are

deemed responsible for causing delays and the adverse consequences they have on airport revenue streams is an important one. Rather than situate the source of security delays internally and within the airport's racist and discriminatory culture of security and surveillance, delays can be jettisoned on to the bodies of Muslim or other racialized travelers. The neoliberalization of risk produces the view that these travelers are potential, economic liabilities that can be dispensed with. The dependency of airport security on biometric systems becomes highly contingent not only on race as a proxy for security risk, but also on race as a proxy for economic risk. Therefore, biometric systems and technologies are deployed, in part, to expedite the processing of passengers through security checkpoints for the purpose of maximizing the value of some passengers as sources of airport revenues. Unsurprisingly, biometric systems are often touted as technologies that simply facilitate mobility within the airport without referencing the racial, gendered or ethnic factors, which are always present at security screening points.

While existing biometric systems in Canadian airports such as the NEXUS Program and ABC kiosks, have yet to triumph over the challenges of speed and security that airports still face, the development of new biometric systems continues. Under the pretence of reducing wait times and easing traveler congestion, one of the fundamental differences between the PIK and the biometric systems that have preceded it is the way that travelers are enrolled. The NEXUS Program is a biometric system that uses iris recognition to speed up border crossings into Canada and the US for pre-approved travelers who are considered low risk. To enrol in the NEXUS Program, an individual

must first be eligible to apply. The application process that initiates one's eligibility includes a non-refundable fee, the submission of biometrics, a scheduled interview and a risk-assessment ("Join NEXUS"), which is subject to approval by both the CBSA and the US Customs and Border Protection. As such, one of the drawbacks to the NEXUS program, beyond issues of surveillance and privacy, is that it cannot be deployed on a mass scale, reserved only for approved and registered travelers. The ABC kiosks located at Toronto Pearson International Airport, Montreal-Pierre Elliot Trudeau International Airport and Calgary International Airport, require no fees or submission of biometrics; however, these kiosks are only available for use when entering Canada. Restricted to Canadian citizens, permanent residents of Canada and US citizens, the ABC kiosks are designed to reduce wait times when entering Canada by assisting border officers in the verification process of an individual's customs and travel documents ("Automated Border").

Unlike the limited functionality of both the NEXUS program and the ABC kiosks, the PIK program developed by Vision-Box[33] is operational with most travelers, including "visa-exempt and visa-required foreign nationals" ("Executive Summary"). Whereas the NEXUS and ABC programs are limited by the type of travelers that can respectively enrol and use the biometric systems and technologies, the PIK program broadens the availability and usage of its self-service, border clearance kiosks to include travelers

[33] Vision-Box is a Portuguese company whose automated border control systems, biometric technologies and electronic identity management platforms, have been integrated in more than eighty international airports ("Vision-Box").

previously excluded from other biometric programs. As a result, the PIK program increases the CBSA's scope of traveler surveillance by including facial photographs and "automated traveler risk assessment[s]" of all its users (Braga). In many ways, the PIK program sidesteps the problem of having to enrol travelers into biometric systems and databases. By matching the facial recognition photographs with those already stored electronically on the over "four hundred million ePassports in circulation around the world" ("The Canadian ePassport"), the PIK program avoids some of the scrutiny encountered by other biometric systems like the NEXUS program, which requires the creation of databases for purposes of biometric comparison.

Beyond what the CBSA has already revealed, very little is known about how the PIK system will evolve over time. Jean-Francois Lennon, Vice-President of Sales and Marketing at Vision-Box, has already stated that the CBSA's PIK program will include two biometric phases. The first includes the facial recognition biometrics already in use, while the second phase is slated to incorporate finger-scan technology (Braga). The personal information of travelers who use the PIK is not stored directly on its system, and all personal information and data, in accordance with existing CBSA policy, is "encrypted and transferred securely over dedicated lines to CBSA information holdings" ("Executive Summary"). This personal information, however, including travelers' biometrics can be shared with other government agencies. According to the CBSA, "in the event it is required for enforcement, program integrity or to address health and safety concerns, information may be requested on a case-by-case basis by law enforcement partners,

Employment and Social Development Canada (ESDC) and the Public Health Agency of Canada (PHAC) respectively" ("Executive Summary").

With the PIK program, the potential of data sharing with other agencies is complicated through the "CanBorder-eDeclaration app." This app permits travelers to use their smartphones or tablets on the airplane to complete an electronic declaration (eDeclaration). Upon arrival at the airport, the eDeclaration app enables a traveler to scan the quick response code from their mobile device at the PIK along with their travel document, have their photograph taken, before proceeding to a border officer with the receipt printed at the kiosk. As stated by the CBSA, the eDeclaration app is simple and secure, storing only non-sensitive information and reducing processing time at the PIK by up to fifty per cent ("CanBorder"). But what does a secure electronic device mean within the space of the airport? The Office of the Privacy Commissioner of Canada has already outlined that "Canadian courts have generally recognized that people have reduced expectations of privacy at border points" ("Your Privacy"). At the airport and other border crossing areas, the CBSA is authorized by the Canada Customs Act to search any electronic device belonging to any traveler without a warrant, including those "not planning to cross a border, but are in so-called 'customs controlled areas'" ("Your Privacy").

Moreover, what do we make of the terms of use agreement in the eDeclaration app when considering the expectation of reduced privacy at the airport? Since Google, referred to in the terms of use agreement as the distributor, is not considered "a party to

th[e] agreement, it has the right to enforce th[e] agreement against [the user] as a third party beneficiary relating to [the] use of the app" ("Terms of Use"). In other words, the data provided by the user through the app and through their mobile device can be accessed and used by Google as a third-party beneficiary, producing additional forms of unwanted dataveillance. With the emergence of surveillance, dataveillance and biometric systems that require a vast concession of traveler's data, security and privacy rights, the airport can no longer remain a space in which the forfeiture of privacy is merely interpreted as a reasonable expectation by the courts.

Conclusion: Biometrics as Gatekeepers of Airline Travel

Border officers as well as biometric systems and technologies ensure that the racialized knowledges which inform notions of risk, suspicion and danger at airports and border crossings, continue to target Muslim travelers. The interviewees in Nagra's and Maurutto's study reveal some of the devastating emotional, mental and physical effects that profiling at the airport has on their legal citizenship, sense of belonging and understanding of identity. For some Canadian Muslims, in particular, the airport can represent more than a space through which travel is merely facilitated. It can also be a source of immense anxiety that transcends some of the more commonplace anxieties that are frequently associated with airline travel. As Muslim travelers are marked for random checks and additional screening measures by border authorities and technologies, the airport has become a space of precarity, experienced by some Muslims through what I

have referred to as the anxiety of stuckedness. In this form of stuckedness, waiting in the airport or on board an aircraft becomes a source of deep mental and physical anxiety. Whereas some travelers can offset some of these anxieties by turning to the airport's many spaces of leisure and consumption, waiting at the airport constitutes something far more severe and anxiety-inducing than the mere passing of time, primarily for Muslim travelers who continue to be seen and treated by the airport's security and surveillance apparatuses as pathologically risky populations.

Like the hijackers on 9/11 who took their own lives in the process of taking the innocent lives of thousands of others, the perceived and culturally embedded security threats posed by Muslims in the airport follow a similar narrativization; which is to say, Muslim travelers are viewed as potentially weaponized bodies. In *Necropolitics*, Achille Mbembe explains that "[t]he candidate for martyrdom transforms his or her body into a mask that hides the soon-to-be detonated weapon…Thus concealed, it forms part of the body. It is so intimately part of the body that at the time of detonation it annihilates the body of its bearer, who carries with it the bodies of others" (36). By adhering to narratives of the terrorist and/or suicide bomber, the wide-ranging surveillant gaze levied against Muslims is one that views their bodies as potential weapons, "not in a metaphorical sense but in the truly ballistic sense" (36).

The turn to biometric technologies at the airport is suggestive of the state's post-9/11 anxieties related to Muslims at airports and border crossings. The introduction of facial recognition systems, fingerprinting and iris scanning seek to authenticate

identities through physical bodies, but only when these bodies can be digitally dismembered and electronically read and stored. But as the history of biometrics has shown, it is a technique and technology that is tied up in colonial histories of discrimination. From the colonial fingerprinting of Indian populations to the branding of Black bodies during the transatlantic slave trade, biometrics were put into use as instruments of racial subjugation. As early as the sixteenth century, Giovan Battista Della Porta popularized the study of physiognomonics across Europe. Porta's pseudoscientific system of mapping the physical characteristics of bodies as a way of "predicting the soul's hidden inclinations or dispositions" (Kodera), is a system that is, to some extent, reproduced by modern biometric systems. By tethering an individual's abstract identity to the body, biometric systems interpret identity through the digitized dismemberment of physical characteristics. They attempt to reduce the multiple conceptualizations of an individual's identity to the body; thus, one's individual identity, social identity or non-conforming identity are excluded from the process of identity formation, authentication and verification by biometric systems. For this reason, bodies without biometric identities are rendered as more insecure than those which are linked to biometric tokens of trust.

In addition, the turn to behavioural profiling techniques in which technologies and airport security "are systematically reading the *faces* of passengers in order to discover not identity…but, rather, intentions and emotions displayed in facial expressions" (Adey, "Facing Airport" 280), implies how critical and, yet, how backward the use of biometrics and physiognomonics are to the securitization of the airport. As Adey argues, "the face

becomes the repository of the future or a reservoir of feelings displayed as they happen, anticipating futures which might be, or feelings someone may want to keep hidden" (281). In this system of security and surveillance, the techniques of behavioural detection do not originate from the face as "socialised displays of emotion," but from "biological indicators of fear, anxiety, and conflict which are instinctive and uncontrollable" (284). The body becomes a source of indisputable truth, a vehicle through which some inward hidden collusion is exposed by the uncontainable outward expression of the face and other microgestures of the body.

Despite these apparent problems, the trend in most global airports continues in the direction of biometric systems and technologies. Vision-Box, the company behind the PIK technology at Toronto Pearson International Airport and others, continues to develop a range of automated biometric systems for airports. At Buenos Aires Ezeiza International Airport, Vision-Box installed biometric eGates, which they believe creates "a swift, stress-free passenger experience" ("Argentina Launches"). Through this stress-free experience, not only are data embedded on ePassports compared and verified against real-time facial and fingerprint biometrics, "extensive and accurate background checks are automatically and instantly conducted against INTERPOL, no-fly lists, and internal security lists to make certain that only authorized and lawful individuals are allowed to enter or exit the country" ("Argentina Launches").

At Amsterdam's Airport Schiphol, Vision-Box and other companies are taking part in a biometric trial run to implement technology at security checkpoints, requiring

passengers to cross checkpoints throughout the airport using only facial biometrics, without producing a passport or boarding card ("Border Passage"). In 2017, the Australian federal government awarded Vision-Box a three year contract worth twenty-two and half million dollars, to design facial recognition systems that would allow some travelers to pass through Australian airports without producing passports (Pearce, "Government Awards").

As part of the contract, Sydney Airport and Vision-Box partnered to create the Fast Passenger Processing Project in 2018. In this project with Qantas Airlines, the use of a mobile app "allow[s] travelers to capture an image of their face and their passport and use that data to enrol in a planned biometric-based authentication system" (Pearce, "Sydney Airport"). Biometric cameras installed at security screening points at Sydney Airport, permit passengers to be tracked as their flows are monitored throughout the terminal. The system is also being designed to provide passengers with a customized airport experience, "tracking them through the airport and enabling a business lounge, for example, to greet someone by name and already have details of their personal preferences when they arrive" (Pearce, "Sydney Airport"). A future iteration of the Fast Passenger Processing Project could additionally allow passengers to check-in from their homes with "an app to capture a biometric registration" (Hendry).

The momentous shift toward the seeming security and expediency of eBorders at airports and border crossings reflects a different form of control by the state, which we might more broadly refer to as biometric governmentality. In this form of

governmentality, global flows of populations across borders can be permitted, restricted or denied on the basis of biometric enrolment into programs and databases. With the plethora of biometric systems and technologies already in use, or currently in development, at most international airports around the world, the future of cross-border airline travel will likely become dependent on the use of biometrics. Under these circumstances, enrolling and participating in biometric programs will become a necessity for airline or cross-border travel. Those who submit to biometric programs will have the privilege of being seen as trusted travelers with seemingly nothing to hide. On the other hand, those who refuse to enrol in biometric programs, for whatever reason, may be viewed as obstacles, threats or liabilities to airline travel, the airline industry or even to the state.

Without the technological capacity to somehow view their exteriority as a window to their interiority, the identities, motivations and emotions of these travelers remain in a perpetual state of uncertainty. Instead of being seen as individuals who refuse to forfeit their privacy through biometrics, untrusted travelers may be read as having something to hide precisely because they cannot be digitally dismembered and read. Preventing the mobility of these travelers by preventing their propensity to travel, enables the state to exercise a form of indirect control through biometrics. In this way, privileged travelers are no longer those who can afford to travel and enrol in biometric programs; rather, they are the ones who are willing to forgo their own security and privacy for the purpose of traveling. With biometrics as a form of governmentality, the problem of enrolling all

travelers into biometric systems and databases is one that all of a sudden becomes resolvable. By making biometrics a necessary component of airline travel, those who want to travel or need to travel will be required to surrender and enrol in biometric systems. The state can deploy biometrics to not only facilitate its biopolitical project, but to facilitate a much larger transnational system of mobility control that goes well beyond the boundaries and the borders of the airport and the state.

Conclusion

Countering State Surveillance in the Digital Age

> "Knowledge, like air, is vital to life. Like air, no one should be denied it."—Alan Moore and David Lloyd, *V for Vendetta* (218).

The cases of Abdoul Abdi and Abdilahi Elmi represent some of the wide-ranging issues of race and confinement that underpin the discussions in this dissertation. As refugee, Black Muslim men, their cases encapsulate the state's consternation with issues of migration, race and religion. As I have pointed out throughout my dissertation, Canada has historically responded to these issues and those affected by them by increasing surveillance measures and rates of incarceration. Unfortunately, Canada's treatment of Abdi and Elmi reminds us that these same issues still dictate government policy and affect racialized and marginalized people to this day.

In 2000, Abdi arrived in Nova Scotia at the age of six with his aunt and sister. They were given permanent residency status under a sponsored refugee program (Mochama). By 2001, however, Abdi and his sister were taken into provincial custody by child services and separated (Mochama). In the years that followed, Abdi was bounced from one foster home to another for a total of thirty-one times (Thomson), enduring a stretch of three years in one foster home that was deemed to be abusive (Jones). As a teenager and victim of repeated systemic trauma, Abdi became homeless and later turned to crime (Jones). In 2018, after he had served a four-year prison sentence for a series of crimes to which he plead guilty, the Canadian government sought to deport him. Since the

state did not initiate any citizenship proceedings for Abdi as a child while in their legal custody, his subsequent criminal record made him criminally inadmissible to Canada, despite having "become a permanent ward of the state" at the age of nine (Mochama). Following a judicial review on 13 July 2018 by Justice Ann Marie McDonald, the Federal Court ruled against Abdi's deportation, citing the federal government's decision to deport him as a violation of his Charter rights and those in line with international law (Lau). A few days later, the Minister of Public Safety Ralph Goodale announced the government would respect the decision reached by the Federal Court and would no longer pursue Abdi's deportation (Thomson).

The federal government also recently sought to deport Elmi who, in 1994 and at the age of ten, arrived in Ontario with his mother after fleeing persecution in Somalia (Keung, "At the UN's Request"). While the federal government initially granted them refugee protection upon their arrival, Elmi found himself placed in provincial foster care at the age of thirteen (Grant). By the time he had reached sixteen years of age, Elmi was homeless and had already experienced numerous run-ins with the police (Keung, "At the UN's Request"). Having most recently served a six-month prison sentence for assault, Abdi accumulated a rather extensive criminal record, which, as advocates argue, stems in part "from the trauma he experienced as a child living through war" (Nasser, "'A Death Sentence'"). Similar to Abdi's case, the state did not initiate citizenship proceedings for Elmi as a child refugee and, as a result, his subsequent criminality made him inadmissible to Canada (Keung, "At the UN's Request"). In August 2019, at thirty-four years of age,

Abdi was scheduled to be deported to Kismayo, Somalia, the same place where a terrorist attack killed twenty-six people in the previous month (Keung, "At the UN's Request"). Although Elmi's request to the Federal Court to have his deportation suspended was denied, his supporters appealed to the United Nations (UN) Human Rights Committee, "arguing that Canada would violate its international human rights obligations by removing Elmi to Somalia, one of the most dangerous countries in the world" (Keung, "At the UN's Request"). As the UN Human Rights Committee reviews Elmi's case, the federal government has been asked to temporarily suspend his deportation order until his case is reviewed in full (Keung, "At the UN's Request"). The federal government has agreed to do so.

Both Abdi's and Elmi's cases constitute what Said Emmanuel Onah of the African Canadian Civic Engagement Council describes as a series of "'collective systemic failures of the justice system'" (qtd. in Keung, "At the UN's Request"). As refugee children, both were taken into state custody and abandoned, left to fend for themselves on the streets as teenagers. Under the care of children's aid, neither child was assisted in acquiring permanent resident status in Canada, a necessary step toward becoming a citizen. This crucial step of acquiring citizenship would have prevented the government from attempting to have them deported (Keung, "At the UN's Request"). To complicate matters even further, particularly for former refugee children like Abdi and Elmi, staff lawyer Jane Stewart notes that, "'children who are raised in the care of the state have persistently negative outcomes in terms of their exposure to trauma, lack of educational

opportunities, poorer mental health and health outcomes and increased crossover into the criminal justice system'" (qtd. in Lau). The range of systemic failures that Abdi and Elmi encountered as Black, Muslim refugee children points to the systemic and structural failures of Canada's growing carceral archipelago.

Chapter 1 has explored how racially "undesirable" (Kazimi 8) refugees are caught up in the expansiveness of Canada's carceral system, including structural, non-institutional and technology-based modes of detention and confinement. Abdi and Almi's many encounters with the police and the state draws attention to the examination in Chapter 2 of public spaces as real and digital carceral spaces for Black people, communities and activists, who continue to be over-policed and over-surveilled through both police surveillance technologies and technologies of counter-surveillance. Lastly, Chapter 3 has analyzed the modern, global airport as a carceral space for Muslim travelers who are often subjected to race-based surveillance and carceral practices, particularly since the attacks on 11 September 2001 (9/11).

Throughout each chapter, I have attempted to think through some of the ways that surveillance culture, state surveillance apparatuses and their confluence with the carceral, remain driven by racialized knowledge production and race-based discriminatory practices. For some, especially racialized and marginalized people and communities who have felt, lived and experienced the effects of state surveillance, this may certainly come as no surprise. However, this project has gone one step further by arguing that technologies in the digital age are increasingly becoming carceral themselves. This comes

to the fore in my examination of the use of mobile carceral technologies that are part of Canada's alternatives to detention program in Chapter 1, the use of police body-worn cameras that frequently target people and communities of colour in Chapter 2, and the profiling of Canadian Muslims at airports by both human and non-human operators in Chapter 3.

Despite the differences in these opaque and ubiquitous forms of surveillance, all the chapters point to the ways that state surveillance of racialized people are often linked to carceral ideologies and practices. By situating the notion of state surveillance within Haggerty and Ericson's "surveillant assemblage," this dissertation not only demonstrates an interconnectedness between widespread state surveillance practices and race, it also provides a framework for looking at contemporary and digital surveillance as modalities of everyday carcerality, which are steeped in myths of increased autonomy, democratization and mobility. These myths distinguish conventional perceptions of confinement from the more unconventional perceptions of confinement that this project has aimed to highlight. One key question that remains to be answered throughout these chapters is how racialized people, activists and social movements will continue to resist state surveillance practices, violence and abuses of power, in order to mobilize in an age in which almost all digital interactions are subject to some degree of unwanted surveillance?

To be clear, the Internet and mobile technologies have been integral in facilitating some of the most important democratic protests and social movements in recent history.

For example, beginning in late 2010 in Tunisia and stretching throughout 2011 in countries such as Egypt, Yemen and Libya, the Arab Spring gained significant momentum through social media as an effective instrument and platform for mobilization (Dewey et al. 11). YouTube, Facebook and Twitter became instrumental during the Arab Spring as "tools for organizing demonstrations and sharing real-time news" (18), drawing immediate global attention to the "social unrest [that] was and continues to be rooted in a broader set of economic, social, and political factors" (4). Aware that governments were monitoring social media as a way of intervening and preventing further protests and demonstrations, some organizers during the Arab Spring even used social media as a tool to mislead the police, providing intentionally false locative information while gathering and mobilizing at other locations (18).

In late 2012, Jessica Gordon, Sylvia McAdam, Nina Wilson and Sheelah McLean, a group of women from Saskatchewan, started a Facebook page to address the injustices they saw with Bill C-45, a piece of legislation that "attack[ed] the land base reserved for Indigenous people, remove[d] protection for hundreds of waterways, and weaken[ed] Canada's environmental laws" (Caven). As a reminder "'to get off the couch and start working'" (qtd. in Caven), Gordon named the Facebook page "Idle No More." The name of the Facebook page quickly evolved into #idlenomore, a Twitter hashtag that has been "used hundreds of thousands of times" (Donkin) to organize and coordinate rallies and protests, first across Canada and then across the globe (Caven).

Black organizers Alicia Garza, Patrisse Cullors and Opal Tometi, founded the Black Lives Matter (BLM) movement in 2013, initially in response to the acquittal of George Zimmerman in the 2012 killing of Trayvon Martin (Ray et al., "Introduction" 1795). The BLM movement gained further momentum in 2014 after the killing of Michael Brown in Ferguson, Missouri, where marches, demonstrations and protests in the name of innocent Black people, killed or brutalized by police, spread across the globe (1795). From 2013 to 2018, the hashtag movement #BlackLivesMatter has been used "nearly 30 million times…an average of 17,002 times per day" ("Activism").

In 2014, Man Horan Monis, a lone Muslim gunman, took eighteen hostages in the Lindt chocolate café in Sydney, Australia, a standoff that lasted sixteen hours in which Monis killed one hostage before being killed by police (Doherty et al). Shortly after what became known as the "Sydney siege," the hashtag movement #illridewithyou went viral as anti-Muslim hate crimes in Australia drastically increased following the attack (Friedersdorf). The hashtag was created by Rachael Jacobs, a young woman from Brisbane, Australia, after she noticed a Muslim woman who, following the attack and the escalation of anti-Muslim violence, removed her hijab on a public train (Ruppert). As an attempt to show solidarity with Muslims, Twitter users in Australia and around the world "offered to ride public transport with Muslims who fe[lt] intimidated by anti-Islamic sentiment" (Ruppert).

As Rashawn Ray et al. point out, "social media bring voices to those who traditionally do activist work in silence…circumvent[ing] traditional forms of publicity to

place power in the hands of individuals who collectively join in solidarity for a common cause ("Ferguson" 1799). Moreover, the use of Twitter hashtags, or what some refer to as hashtag activism, has been particularly useful in "allow[ing] for the observation of echo chambers" (1799).[34] For Ray et al., hashtags are fundamental in creating and sustaining "collective identities" (1799), which have become essential to the success of social movements online (1799). Hashtags accomplish this in the following ways:

> [They] help to bolster echo chambers and function as collective action frames… [they] create an orienting structure that allows users to focus on a particular strand of dialogue…and engage in retweeting messages to display commitment and solidarity…Hashtags allow individuals to establish distinct group identities and separate from unwanted cultural or political mergers with other collective identities…[and they] allow for the depersonalizing of the self-concept and transform the 'I' into a 'we.' (1799)

As we have seen with the Arab Spring, Idle No More, BLM and, to a less organized and more informal extent, reactionary hashtag movements such as #illridewithyou, social media platforms have clearly provided a medium through which groups, activists and social movements can organize, mobilize and deliver their messages to mass audiences in

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[34] Although echo chambers can be useful in the context of organizing and mobilizing, David Robert Grimes suggests that they tend to limit our online and social media interactions with those who share similar beliefs and ideologies, reverberating homogenous beliefs and opinions without having them openly challenged or critiqued. (Grimes). As Lorraine Sheridan adds, echo chambers run the risk of becoming "'closed-ideology echo chamber[s]'" (qtd. in Grimes).

real-time. They have also provided organizers and participants with platforms through which larger collective identities have formed, empowering participants and supporters to "feel a moral and emotional solidarity to speak up and speak out against," for example, "the increase in the number and publicity of police killings of blacks" (1799).

Nonetheless, there remain critical issues with the ways in which hashtag activism operates. For instance, although the #illridewithyou campaign "was borne out of goodwill," Nazry Bahrawi argues that it reproduced longstanding tropes of the Muslim Other, primarily as either "a barbaric savage or a noble savage" (Bahrawi). To elaborate, Bahrawi points to Mahmood Mamdani's good Muslim/bad Muslim dichotomy, where "good Muslims…were anxious to clear their names and consciences" from the acts of violence or terror committed by "bad Muslims" (Mamdani 22). In the immediate aftermath of the post-9/11 world where "every Muslim was presumed to be 'bad'" (22), so many Muslims were forced to bear the work of becoming 'good Muslims' by condemning those who were perceived to be 'bad Muslims.' While this dichotomy is entirely culturally and racially fabricated, and serves only to mask "a refusal to address our own failure to make a political analysis of our times" (23), the #illridewithyou campaign reinforces the notion that the "the noble savage should be admired and protected" (Bahrawi).

Hashtag campaigns, activism and social movements have also been effective in exposing power and abuses of power; yet, at the same time, they have been less effective in adapting to the digital transmutation of power. As this dissertation has shown, the

surveillant assemblage and the digital panopticon encompass almost everything and anything that is digitally connected and transmitted, particularly by users who may lack the requisite knowledge to safeguard themselves against some of these opaque incursions of power. Stephen Owen contends that social networking services "are predicated upon visibility…allow[ing] users to post information about themselves and their behaviours and interests" (690). As such, they "can be understood as social surveillance technologies," architectures of visibility that make "the sharing of information almost frictionless…to [even] those most interested in quelling protest" (690). To add to this dilemma, Lina Dencik et al. argue that,

> [T]he entrenched dependency on mainstream communication platforms that are predominantly insecure provide an environment for activist practices in which it is seen as difficult and problematic to engage in resistance to surveillance either through technological means or in terms of protest and advocacy for greater privacy and data protection. (8)

Herein lies one of the major predicaments between hashtag activism and the accessible and expeditious use of social media as a fundamental tool for activism: how do activists work within these architectures of visibility to engage in activism and social justice without making themselves and their supporters more vulnerable to repressive forms of state surveillance, violence or even death?

Struggles for social justice have seemingly always been met with increased state and non-state surveillance and violence. We need only look to the American civil rights

movement in the 1950s and 1960s, to take note of the surveillance measures and acts of violence that were exacted against predominantly Black Americans, grassroots movements, demonstrators and protesters. Prominent Black scholars, ministers and activists such as James Baldwin, Malcolm X and Martin Luther King, Jr., were targeted and surveilled by the Federal Bureau of Investigation (FBI) for their roles and participation in Black activism (Gold; Griffey). Black civilians were also surveilled and targeted, whether or not they took part in demonstrations, protests or other forms of activism, including the "40 civil rights martyrs who were slain during that era" and an additional "74 men and women who died between 1952 and 1968 under circumstances suggesting they were the victims of racially motivated violence" ("The Forgotten").

Unfortunately, since then, little has changed in terms of surveilling and policing race and social or political activists. In fact, things have seemingly gotten worse in the digital age. The pro-democracy uprisings during the Arab Spring saw governments respond by arresting protesters and online activists (Dewey et al. 17), shutting down access to the Internet (18), and using violence and military force to suppress demonstrations in public spaces (20). The Idle No More movement, which RCMP Corporal Wayne Russett compared to the growth of "bacteria" in an internal site report (Barrera), has faced new legislative challenges brought on by the Anti-terrorism Act, 2015. As a movement that at its core is centred around protecting Indigenous lands and the environment, protests or blockades against proposed pipelines, as one example, may be interpreted through the anti-terror legislation as "activit[ies] that undermine[] the

security of Canada" by "interfer[ing] with critical infrastructure" (Anti-terrorism Act, 2015 3; Roache). Since the 2014 anti-police protests that began in Ferguson with the BLM movement, the Department of Homeland Security and the FBI have been monitoring BLM social media accounts, including using hashtags, location data and Google Maps, to provide live updates of the physical and spatial movements and locations of protestors (Joseph). In many of these cases, and most recently with the mass protests surrounding the police killing of George Floyd, peaceful organizers, protesters and demonstrators have been arrested, beaten and tear-gassed (Li and Imam; Kamb and Beekman), including police violence aimed at journalists (Burns).

What has changed between the policing of more traditional and contemporary social movements, protests and activism is the method and medium through which policing is enacted. The use of digital and social media as apparatuses for both policing and activism makes the work of social justice all the more complicated and dangerous. As is evident with the George Floyd protests, activists are always at risk of being assaulted, detained or arrested by virtue of their physical presence and occupation of public spaces. But the added digital dimension to activism has also increased the bodily risk associated with the occupation of physical space. In this way, the very digital technologies and social media platforms that have become so integral to contemporary and hashtag activism, have also become instrumental to the organizational surveillance and policing of individuals and groups in public and digital spaces. Christopher Parsons et al. refer to the mobile phone as "a predator in a person's pocket, magnifying the pervasive surveillance of the

spyware operator" (1). Their report highlights the multiple ways in which spyware applications in mobile phones can collect and reveal the following data to the operator: "SMS text messages, call logs and call histories, location and GPS data, contacts, web browsing history…the contents of social media accounts…chat logs and histories from online messaging apps…all keystrokes that the targeted person makes while using the device, and photos and videos stored on the device" (100).

In China, amidst the 2019 Hong Kong protests, a German cybersecurity firm revealed that a mobile phone app gave "[t]he Chinese Communist Party 'superuser' access to the entire data on more than 100 million Android-based cellphones through a back door in a propaganda app that the government has been promoting aggressively" (Fifield). As a way of further enabling the digital surveillance of everyday Chinese citizens, Chinese government authorities could "retrieve messages and photos from users' phones, browse their contact and Internet history, and activate an audio recorder inside the devices," including "the power to download any software, modify files and data, or install a program to log key strokes" (Fifield). When we understand our online behaviours, interactions and mobile devices as integral components of a much larger surveillant assemblage, which is constantly misused and abused by state and non-state actors, we clearly see how individuals can also be complicit in these larger state and corporate surveillance schemas.

Although I am hesitant to suggest that our digital complicity in state and corporate surveillance practices extends to our complicity in the relinquishing of some democratic

controls, I do want to suggest that a return to more 'unconventional' methods of organizing and mobilizing may be required for activism in the digital age. By unconventional I mean a return to face-to-face interactions and a departure from more digitally-centric and computer-mediated ones. Most social movements emerge and coalesce not because of the Internet or social media, but because of social unrest that runs much deeper than the digital technologies and social media that facilitate them. We have certainly seen and continue to see how powerful and liberating social movements can be through social media; however, we have also witnessed how online social movements such as Occupy Wall Street can fizzle out rather quickly due to the lack of deep-seeded collectivity and resilience that builds over time (Malchik). We have also seen how social movements with a heavy online presence have been used as repressive tools by various state apparatuses, and by "foreign actors, trolls, and automated bot farms," who not only pretend to be citizens but "hack away at societal unity through amplifying divisions," while "generat[ing] millions of online comments aim[ed] [at] sway[ing] public policy one way or another" (Malchik). Unless the Internet and our digital privacy rights become regulated and protected, digital space and, by extension, public space will remain immensely perilous.

In making this argument, it is imperative to note that the vast majority of social and liberation movements that have been so transformative over time have all predated the Internet and social media. Whether we look at the beginnings of the women's suffrage movement, the civil rights movement or the emergence of LGBTQ+ movements, civic

engagement does not require or rely on the Internet. Instead, as Antonia Malchik points out, civic engagement requires everyday face-to-face interactions "between neighbors and communities," which can be small and inconsequential but, nevertheless, "remind [us] that we're not alone" (Malchik). What sustains social movements and activism and gives them their resiliency and staying power is "long-term face-to-face organizing" (Malchik). These interactions increase civic engagement while simultaneously improving and strengthening our understanding of one another (Malchik). To this, Malchik adds that, "[e]ffective protest requires not just the right of the people to gather, but accessible public spaces in which gathering is possible and citizens who understand what those rights are" (Malchik). What Malchik astutely takes note of is that civic engagement and protest, including those part of the Arab Spring uprisings, Idle No More and the BLM movement, are centred primarily in and around physical bodies that occupy physical spaces.

Again, there is no doubt that the Internet and social media serve as digital vehicles by which social movements and activists reach mass audiences to reveal social injustices almost instantaneously. The Internet has certainly provided certain groups and activists with a way to directly communicate and address issues of social justice that have affected (and continue to affect) their lives and communities. However, audience reach and the speed at which audiences are reached do not guarantee the resiliency of any social movement. There is most certainly a place for digital or hashtag activism, particularly in an age in which almost everyone and everything is digitally oriented. But figuring out where and how the Internet, social media and all its affordances fit into social or political

activism is a balancing act that requires a serious and painstaking approach, not to mention a real technical knowledge and awareness of how data needs to be protected so that bodies on the ground remain protected.

Given the additional dangers that the Internet and social media pose to the already dangerous work of social movements, activism and social justice, one wonders if perhaps the best method of counter-surveillance will come in the form of reducing the state's capacity to surveil social movements and activists online. This does not suggest that digital activism, mobilizing and organizing should be eradicated; rather, it suggests that users first consider their devices and the Internet as instruments and spaces that can be compromised by the state and by others. Aliya Chaudhry outlines a few easy steps that digitally-mediated protesters and activists can take to secure themselves on the ground and in the digital landscape. Outside of leaving one's mobile device at home, people can encrypt their devices, use virtual private networks and, when possible, prevent or eliminate the metadata when taking photographs or videos (Chaudhry). While many of these enhanced security measures can help keep protesters and activists safe, none of them can ultimately prevent law enforcement agencies from monitoring or tracking their interactions and movements. In the midst of the COVID-19 pandemic, which has accelerated our reliance on technology in an age in which technology already plays critically important functions in our everyday lives, it is important to remember that the sustainability of social movements rests not in technology but in the direct, shared and

phenomenological experiences of individual and collective relationships, which technology and the Internet can mimic but never quite embody.

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