

In the Name of Protection:  
A Queer Abolitionist Critique of Reform

by

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To all of the people whose stories are told within,  
and the millions who survive and resist this violent society.

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## **Content Warning**

This thesis contains graphic descriptions of prolonged sexual, physical, and verbal abuse and harassment. It discusses individual and systemic violence motivated by racism, sexism, ableism, homophobia, and transphobia, and some quotations contain slurs. Chapter three includes the words of individuals who were tortured at length, depictions of their mental state, and discussion of attempted suicide. Although these stories are disturbing and can be upsetting for the reader—and were deeply upsetting for me as I researched and wrote about them—I believe that it is crucial ethically and politically to center this work on the uncensored experience of incarcerated people.

## Introduction

### Queerness, Biopolitics, and the Prison-Industrial Complex

“The prison is more than an institution composed of cages, corridors, and guard towers; it is also a system of affects, desires, discourses, and ideas that make the prison possible. The prison could disappear tomorrow, but the types of power that give rise to its reign would live on. Escape doesn’t mean getting out; it means remaking the order of the world out of new ontologies and epistemologies that change the fashioning of life and death.”

—Stephen Dillon, “The Prisoner’s Dream: Queer Visions from Solitary Confinement”

While incarcerated, there are no safe spaces to be queer. The culture of masculinity in prisons exposes incarcerated queer people to extreme homophobic and transphobic violence. These sex-segregated institutions “enforce rigid, queerphobic codes of gender and sexual expression and identity,” and punish deviance.<sup>1</sup>

Furthermore, queer people are overrepresented in the incarcerated population; according to the National Inmate Survey of 2011-2012, 7.9% of the sampled U.S. prison population identified as LGBT, as opposed to 3.4% in the total U.S. population (Gates and Newport 2012). According to the National Transgender Discrimination Survey, 16% of transgender adults have served time in a prison or jail.

The scale of mass incarceration has changed rapidly in the 20<sup>th</sup> and 21<sup>st</sup> centuries. According to Prison Policy Initiative, more than 2.3 million people are incarcerated in the United States in 2017; this includes people being held in federal and state prisons, jails, juvenile facilities, immigration detention centers, and military prisons (Wagner and Rabuy 2017). Marginalized groups are incarcerated at disproportionately high rates: according to The Sentencing Project, people of color make up 67% of the prison population, compared to 37% of the total U.S. population, and one in three Black men will be incarcerated in their lifetime. Public attention has

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<sup>1</sup> This quote comes from Justice Now’s information sheet called “Prison Abolition Is a Queer Issue,” available at: [http://www.bentbarsproject.org/sites/default/files/JusticeNow\\_prison\\_abolition\\_queer\\_issue.pdf](http://www.bentbarsproject.org/sites/default/files/JusticeNow_prison_abolition_queer_issue.pdf).

recently turned (in limited capacity) to the racial inequalities of incarceration, but queer people continue to be underrepresented in data and literature. In fact, it is largely incarcerated queer people themselves who do the work of exposing the homophobia and transphobia they experience and the inherent violence of incarceration.

In discussing the experiences of incarcerated queer people, I use the term “queer” broadly to refer to anyone who represents a challenge to and is punished by systemic white heteronormativity.<sup>2</sup> People who are queered in this sense do not just have queer identities, but transgress cultural norms of sexual desire or behavior (Berlant and Warner 1998, Ahmed 2006, Puar 2005). This broad definition helps us understand the ways in which carceral institutions and practices reproduce multiple and intersecting logics of contamination and containment.

In the last few decades, the incarceration rate and number of carceral<sup>3</sup> institutions in the United States has increased dramatically. Activists and scholars have begun to speak of the “prison-industrial complex” (PIC) to describe the system of white supremacist, capitalist logics that underlie this growth (Davis 2003, 84). The

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<sup>2</sup> Following Berlant and Warner, I define heteronormativity as “the institutions, structures of understanding, and practical orientations that make heterosexuality seem not only coherent...but also privileged.... It consists less of norms that could be summarized as a body of doctrine than of a sense of rightness produced in contradictory manifestations” (Berlant and Warner 1998, 548). In this sense, heteronormative constructs normalize heterosexuality, but they also create the feeling of “naturalness” of monogamy, the nuclear family, and even the idea of a career. We can think of a heteronormative life path that includes heterosexual marriage, reproduction, saving for retirement, etc. Using this broader definition, the prison as an institution can be seen as heteronormative beyond its strategy of preventing sexual activity by the dividing of men and women, for example in its violent demands for gender-normative masculine and feminine behavior—such as dominance or compliance—from certain populations. I say “white heteronormativity” here to emphasize that the heteronormative life narrative is inherently racialized and ultimately aims to reproduce a straight white population.

<sup>3</sup> Carceral refers to spaces that function like prisons in their restrictions of movement and time. Based on Michel Foucault’s definitions, spaces from the schoolhouse to the U.S. streets can be described as carceral. In this thesis, I focus on carceral spaces within the prison-industrial complex, such as prisons, jails, and immigration detention centers.

PIC refers not just to prisons, but to a broader system of surveillance, detention, and incarceration, including state and federal prisons, jails, juvenile facilities, military prisons, and immigration detention facilities, as well as the racialized policing practices that continuously fill these spaces with bodies. The term “industrial” references the booming business of constructing and running these diverse carceral institutions, and the profit motive driving their expansion. In addition to construction profits, firms make millions selling supplies to prisons, police profit off of extraction laws that allow them to seize the property of those they arrest, and businesses profit off of the unpaid or extremely low wage labor of incarcerated people.<sup>4</sup> The PIC treats incarcerated people as objects of production, eliminating freedom of choice and movement in the name of maximizing profit.

As the PIC expands and exploitation worsens, what Dean Spade calls “recuperative forms” have been proposed, which purportedly mitigate the violence facing targeted communities (Spade 2017). One example of this kind of reform is the push for police to wear body cameras in an attempt to limit the use of (often lethal) force against people of color. However, as organizer and educator Mariame Kaba has argued, while these policies claim to offer protection, in reality they “allocate more money to the police [and] said technology is more likely to be turned against the public than it is to be used against cops” (Kaba 2014). This kind of reformist logic that offers increased surveillance as a form of protection creates the illusion of progress while masking continued violence against vulnerable populations. Such

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<sup>4</sup> In 2015, the Corrections Corporation of America, a private prison company, made \$1.9 billion in revenue, which amounts to more than \$3,300 per prisoner in its charge (Bauer 2016). Prisons run by the federal at state governments also participate in labor exploitation of incarcerated people, using their low-wage and unpaid labor to upkeep the spaces in which these people are held.

reforms not only strengthen the PIC—by legitimizing the police, building more prisons and jails, and naturalizing incarceration—but they also perpetuate the underlying logics of disposability and technologies of containment that uphold the complex.

Therefore, in this thesis, I examine the impact of policies that claim to protect incarcerated queer people. Taking up the framework of abolition, I argue that these policies actually reproduce and obscure state-sanctioned carceral violence against the most vulnerable, marking certain populations as a threat in order to justify the project of protecting and reinforcing heteronormative white supremacy and racial capitalism. Because these logics operate throughout society, both inside and beyond the walls of the prison, I expand and contract the scope of my analysis in order to maintain a focus on this narrative of protection and threat containment that targets queer populations. In doing so, I argue that reform—even and especially reform that claims to offer protection—masks and reproduces violence. This thesis will trace the histories, logics, and realities of three policies that target incarcerated queer people: HIV quarantine, the Prison Rape Elimination Act of 2003, and protective custody for trans people. I argue that these policies contribute to the work of the prison to maintain the dominant social order; each of these technologies works to contain a threat to national white futurity, marking queer populations as disposable in the name of protection.

### The Development of the Prison-Industrial Complex

As the incarcerated population has exploded around the world, scholars and activists have responded with an explosion of critical theory about mass incarceration.

The analysis of the PIC first requires troubling the notion that incarceration is a response to crime.<sup>5</sup> As geographer Ruth Wilson Gilmore defines in her book *Golden Gulag*, crime, at its most basic level, is a violation of the law. However, laws and crime are both socially constructed; they change over time and are different in different societies. Not all crimes are punished, and not all that are punished are punished with incarceration. Gilmore argues that both the law and the response to crime change “depending on what, in a social order, counts as stability, and who, in a social order, needs to be controlled” (2007, 13). Historicized logics of social desirability and control, which are deeply rooted in racism, determine who ends up behind state bars.

The roots of the modern PIC are often traced back to the mid-1950s and the end of World War II military production. A large group of low-income and Black men returned from the war, and were marked as surplus labor as the economy shifted away from wartime productivity. These men were “the last hired, first fired” in the economic contraction, and the state responded to their unemployment with increased police surveillance (Camp 2016, 22). Economic instability and high immigration caused this labor surplus to grow throughout the 1960s and ’70s (Gilmore 2007, 70). For this racialized group of underemployed and unemployed, the conditions of poverty were exacerbated by a shift in public priorities and the rise of neoliberal capitalism. Neoliberalism marked a movement to foster small government—with laissez faire market capitalism and privatized social services—which necessitated

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<sup>5</sup> In fact, “crime” rates have been falling since the 1990s, when the most rapid increase in incarceration rates began (Ford 2016).

dismantling the Keynesian welfare state that had been set up after the Great Depression. Although the American welfare state was not race-neutral,<sup>6</sup> the political push to repeal welfare programs further racialized poverty. The image of the “welfare queen” as the fraudulent mother stealing hard-working white Americans’ tax dollars also feminized poverty, and framed the takedown of the welfare state as the fall of over-privileged women of color.<sup>7</sup>

High unemployment and the loss of the social safety net, along with white flight to the suburbs, gutted the inner cities. As businesses left these urban areas, the cycle of poverty worsened, leading to the crisis of the 1960s (Camp 2016, 33). Urban police forces cracked down on poor, working class, and Black communities, targeting and killing Black bodies at significantly higher rates than whites. Between 1963 and 1965, Los Angeles police officers fatally shot 27 Black people in the back, and this violence was deemed legitimate by the state in the name of “protecting” the security of the streets (Camp 2016, 34). As critical race scholar Jordan Camp argues, working class people of color—angered by unaddressed poverty, increased surveillance, and state-sanctioned violence—organized social justice movements to push for social, racial, and economic equality; these included the Freedom Movement, the Black Power Movement, the Red Power Movement, and the Chicano Movement (2016).

The Watts Riots in August 1965 marked a pivotal moment in the tension between working class activists and the state. After California Highway Patrol

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<sup>6</sup> The package of laws known as the New Deal was seen as a boon for the American working class and was intended to stabilize the economy following the Great Depression. Many of these laws actively excluded people of color. For example, agricultural and domestic workers were excluded from Social Security pensions; at the time, these occupations accounted for 90% of the Black workforce (Reed 2008). Some of these exclusions were overturned and social welfare programs did support people of color, but these policies were racialized long before neoliberal politicians sought to repeal them.

<sup>7</sup> See Hancock (2004).

assaulted Marquette Frye during a traffic stop, the residents of South Central Los Angeles started an uprising to end police violence (Camp 2016, 21). In response, President Lyndon B. Johnson declared them rioters, stating that they were “lawbreakers, destroyers of constitutional rights and liberties, and ultimately destroyers of a free America. They must be exposed and they must be dealt with” (Camp 2016, 38). Johnson’s push for punishment created an image of political protesters as not just criminals, but as a racialized danger to the security of the United States (Camp 2016). His call for a law and order response—to “deal with” the leaders of the Watts Riots through incarceration instead of addressing their demands—cemented the practice of containing anti-racist activists in the name of protecting a “free American” white future.

While Camp argues that the expansion of the PIC is “the political expression of neoliberal racial and security regimes [that] are the outgrowth of a long counterinsurgency against the Black freedom, labor, and social alliance,” others have argued that the PIC is simply the latest iteration of racialized social control in the United States (Camp 2016, 5). For example, in her popular book *The New Jim Crow*, civil rights lawyer Michelle Alexander argues that institutional social control of Black people is part of the fabric of America; Alexander claims that its form has shifted from slavery to Jim Crow segregation to mass incarceration. In this framework, the rise of the PIC was a response to the success of the Civil Rights Movement, which fought to eliminate the previous form of racialized social control (Alexander 2010, 11). However, Camp argues that this theory takes an overly simplistic and ahistorical view of the freedom movement, and instead takes up “a longer periodization [that]

trace[s] the roots of the long civil rights movement to the radical political cultures of the 1930s” (Camp 2016, 7). Furthermore, while white supremacy both upholds and is upheld by the PIC, this framework does not address the roles racial capitalism and neoliberal ideologies of privatization and securitization play in the PIC’s expansion.

The inclusion of these logics is crucial as the privatization of social services resulted in a surplus of state power and bureaucratic capacity that turned its focus to securitization and policing (Gilmore 2007, 84). While neoliberal politicians like President Ronald Reagan were elected on platforms of downsizing big government by cutting taxes and social spending, Gilmore argues that instead of shrinking, the established state bureaucracy took up security as a new mission for its workers and tax dollars (2007). Building on public fear based on a faltering economy and increasing social tensions, politicians rose to power through promises to be “tough on crime.” This coded phrase was a dog-whistle for laws and practices that police and incarcerate low-income and unemployed people in the name of protecting those privileged by the dominant racial and capitalist order, as well as the social order itself. Once in office, these politicians funded the construction of new, much larger prisons and passed legislation to incarcerate greater numbers of people of color.<sup>8</sup> Following the precedent set by Watts and other uprisings, protesters were frequently arrested as rioters. By incarcerating activists, the neoliberal state sought to contain the threat to capitalism and legitimacy that these radical social movements posed (Camp 2016).

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<sup>8</sup> According to The Sentencing Project, Black Americans are incarcerated at more than five times the rate of whites, so the prison-industrial complex is often discussed as a project of anti-Black racism. However, it is crucial to recognize that racism against all people of color lies at the center of the PIC. Prisons are often built on the ancestral land of Native Americans, and incarcerate Native Americans at disproportionately high rates based on settler colonialist law. The historical narrative provided here focuses largely on Black and Latino populations in urban areas, but the incarceration of Native Americans calls for far more attention and scholarship. See Ogden (2005) and Teran (2016).

Longtime radical activist Linda Evans phrases this as a strategy of containing of people and social change to protect white national futurity: “As economic conditions deteriorate, the strategy for social control is to put poor people away before they pose a serious threat to social order” (Evans 2005, 216).

The neoliberal project of racialized security ramped up with Reagan’s introduction of the “War on Drugs.” While the War on Drugs is often pitched as a response to the rise of crack cocaine, this is anachronistic: Reagan first introduced the war in 1982, but did not begin discussing the role of crack until 1985. The War on Drugs was not a response to crack, but rather a technology of control that predated and capitalized on a crisis for people of color (Alexander 2010, 5). Extensive media coverage about crack in the following years dramatically increased funding for drug enforcement in the form of militarized police and increased incarceration. Stereotypes about “crack whores” and “crack babies” who were “permanently brain damaged [and] on their way to becoming criminals” constructed racialized and gendered security threats that fostered fear among whites (Roberts 2016, xii).

The policing and incarceration of communities of color increased further as the state introduced a profit mechanism to incentive police to wage the War on Drugs. As of 1984, federal law enforcement agencies were allowed to keep any assets they seized during searches and arrests, while state agencies could keep up to 80% of forfeitures (Alexander 2010, 78). Loose requirements for seizure of “mere suspicion of illegal drug activity” created huge incentives to police low-income communities of color and seize cars, homes, and drugs (Alexander 2010, 79). In the same year, the Corrections Corporation of America (CCA) was given a contract to run a prison in

Tennessee, beginning the era of private prisons (The Sentencing Project, 2012). CCA and other private prison companies create profit by cutting staff, programming, nutrition, and health care at substantial cost to the welfare of incarcerated people (Evans 2005, 217). Their profit also depends on being at full capacity, creating incentives to lobby for higher incarceration rates (Mason 2012).

Indeed, private prison corporations have lobbied strongly for stricter penalties for drug crimes. Partially due to the influence of these lobbyists, Congress passed the Anti-Drug Abuse Act (ADAA) in 1988, which imposed mandatory minimum sentences for some drugs. Mandatory minimums are blatantly racist; at the time, the majority of crack users were Black, and crack was the only drug for which ADAA created a federal mandatory minimum for possession on a first offense (Anti-Drug Abuse Act of 1986, 100 Stat. 3207).<sup>9</sup> ADAA also allocated billions of dollars for drug enforcement. The new minimums and funding dramatically increased the average sentence and number of people charged with nonviolent drug offenses, ensuring a consistently large incarcerated population.

Maintaining a large prison population became crucial as private firms began to use the unpaid or low-wage labor of incarcerated people to make their products. Incarcerated people are made to work for often less than a dollar an hour, and low labor costs create huge profits for companies that sell at market prices. Companies from Microsoft to Revlon to Starbucks profit by paying incarcerated people only a

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<sup>9</sup> The composition of crack users has changed drastically since the 1980s. According to the 2012 National Survey on Drug Use and Health, 55% of crack users are white, yet 80% of the people incarcerated for crack cocaine possession are Black. The stereotype and stigma of Black crack users continues to justify racist policing and trials that support disproportionate incarceration of Black people. More recent work has tracked the same phenomenon with the rise in usage of heroin and opioids. See Childress (2016).

few cents per hour (Evans 2005, 218). For example, until April 2016, Whole Foods sold goat cheese and tilapia that were farmed and packaged by people incarcerated in Colorado; these inmates were paid around \$1500 *per year* for their labor to produce these expensive goods (Aubrey 2015). Perhaps the largest contractor of prison labor is the U.S. government, which gets extremely low-cost goods—everything from military equipment to office supplies—from Federal Prisons Industries (UNICOR).<sup>10</sup> Like private prisons and asset forfeiture, prison labor makes the containment of human beings into a profit-making mechanism for companies.<sup>11</sup> Furthermore, prison labor bolsters racial capitalism and the PIC by removing job opportunities from low-income communities, in turn leading to increased state surveillance and incarceration.

The PIC proved to be a bipartisan project under the Clinton administration, which both expanded the carceral state within U.S. borders and exported it around the world. In 1994, President Bill Clinton signed the North American Free Trade Agreement (NAFTA) which caused a “capitalist restructuring of the U.S. and Mexican political economies” and increased immigration into the U.S (Camp 2016, 107). In response to the perceived threat of Latino immigrants “taking our jobs,” the state strengthened and militarized border control, criminalizing and increasingly detaining Latino immigrants (Camp 2016, 107). Like prisons and jails, immigration detention centers are engaged in racialized social control to protect the dominant

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<sup>10</sup> Although businesses did not begin extracting prison labor until the introduction of private prisons, the state has profited off of the low wage labor of incarcerated people since UNICOR was created in the 1930s.

<sup>11</sup> Private prisons were recently abolished by President Barack Obama and then reinstated under President Trump. However, Obama’s policy can be seen as a “recuperative reform.” Activists such as Yasmin Nair have suggested that eliminating private prisons—while important—ignores the profit motives of public institutions and fails to address overall incarceration rates. Additionally, Obama’s executive order focused solely on private prisons, ignoring the reality that the majority of immigration detention centers are privately run. See Law (2016).

white supremacist capitalist social order. Furthermore, Clinton restructured the American welfare system, replacing Aid for Families with Dependent Children with Temporary Assistance for Needy Families (TANF). This new legislation—which included work requirements in order to receive monthly checks, limited welfare enrollment to two years, and increased weekly surveillance of people enrolled in TANF—further removed the social safety net, throwing many families into poverty; not coincidentally, at the same time, the incarcerated population increased by 700,000 (Camp 2016, 107).

In response to increasing and deepening poverty, New York City instituted a “broken windows” policing strategy in 1994. This framework focused police attention and surveillance on “quality of life” crimes in low-income areas, crimes like loitering, vandalism, and shoplifting. Based on the discredited philosophy that the presence of petty crime in an area increases the chances of more serious or violent crime, broken windows placed police focus on minor crimes committed by poor people of color (Fagan and Davies 2000). New York City Police Chief William Bratton, in an effort to “reclaim the public spaces of New York,” first introduced the measure in Greenwich Village, the neighborhood that was home to the 1969 Stonewall Riots. Queer people of color were the primary targets of broken windows policing in this area (Hanhardt 2016, 45). In fact, profiling of marginalized groups is “an essential component of broken windows policing” and police view queer people and people of color with “the presumption of guilt” (Kelley 2016, 17). For instance, trans women are vulnerable to arrest for solicitation just for being in public. The broken windows philosophy has led activists to coin the terms “walking while Black” and “walking

while trans” to describe high arrest rates based on profiling.<sup>12</sup> Broken windows has since been exported around the country and the world.<sup>13</sup> In New Mexico and the southwest, Native Americans are targeted simply for being off the reservation and are “made to stay in constant motion” to avoid the appearance of “loiter[ing], panhandling[ing], sleep[ing] in public, or perform[ing] basic bodily functions because these are all criminalized behaviors” (Heatherton 2016, 111). These policing tactics incarcerate huge numbers of people in city jails; since those who are arrested are overwhelming low-income and cannot afford the high bail fees, they often remain in jail until trial, contained in the name of protecting the safety of the streets.

The introduction of the “War on Terror” escalated the exportation of surveillance and incarceration as President George W. Bush forced nations to choose sides, stating “you are with us, or you are with the terrorists” (Evans 2005, 222). Choosing the U.S. meant increasing domestic surveillance in the name of counter-terrorism and implementing a system of neoliberal capitalism to fund policing and mass incarceration (Evans 2005, 223).<sup>14</sup> In this new political moment, queer theorist

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<sup>12</sup> In addition to being more likely to be stopped on the street, people of color and queer people are more likely to experience police violence when stopped. A 2012 survey by Make the Road NY and the Anti-Violence Project found that transgender people of color were the most likely of all residents to experience harassment and abuse from police. See Edelman (2014).

<sup>13</sup> Broken windows was not the first international exportation of the PIC. Beginning in the 1980s, the U.S. exported the war on drugs to Latin America. Bolivia, following U.S. intervention, established mandatory sentencing laws that have led to severe prison overcrowding. Beginning in the 1990s, women were more commonly incarcerated for drug crimes there than men (Diaz-Cotto 2005, 144). The U.S. military presence around the world has sought to install neoliberal capitalism using “mass imprisonment, political repression, proxy wars, and outright military takeovers” (Evans 2005, 215).

<sup>14</sup> In the introduction to *Global Lockdown*, Julia Sudbury makes a compelling case for the importance of a transnational approach to mass incarceration, acknowledging but not solely focusing on the U.S. exportation of neoliberal capitalism. Mass incarceration is a growing crisis worldwide, but due to the limitations of this project, I will focus only on carceral spaces in the United States. This is a major limitation of my research, as incarcerated queer people around the world face horrible conditions, even more so in countries where being queer is itself a crime. For more information about the transnational spread of mass incarceration, see Sudbury (2005).

Jasbir Puar argued for the rise of “homonationalism” in which “sexuality has become a crucial formation in the articulation of proper U.S. citizens across other registers like gender, class, and race, both nationally and transnationally” and certain “accepted” queer populations have been marked as belonging to the nation (Puar 2013, 336). Homonationalism is, for Puar, “an analytic category deployed to understand and historicize how and why a nation’s status as ‘gay-friendly’ has become desirable in the first place” (Puar 2013, 336). These ideas of sexuality and nationalism are brought to bear on which queer populations constitute a threat to hetero/homonormative nationality, as opposed to being accepted as a part of it.

Much of the literature on the PIC has focused on men, but it is crucial to recognize that the prison-industrial complex affects people of all genders, both inside and outside of prisons. In particular, women of color are targeted by drug war policies and enforcement. Police in the U.S. defend gendered racial profiling and “have stated that they believe that most drug couriers are Black females and that being Hispanic or Black was part of the profile they used to identify drug traffickers” (Bohrman and Murakawa 2005, 113). Women are arrested for nonviolent drug crimes, often selling or simple possession, and then face extremely long sentences unless they give information to the police (Díaz-Cotto 2005, 145). In prison, particularly in the United States, these women face heightened discrimination because of their race and gender, and often their class, English language skills, and sexuality (Díaz-Cotto 2005, 140).

In her abolitionist manifesto *Are Prisons Obsolete?*, renowned activist and scholar Angela Davis suggests that the existence of the prison “relieves us of the responsibility of seriously engaging with the problems of our society, especially those

produced by racism and, increasingly, global capitalism” (Davis 2003, 16). Instead of engaging with these problems, prisons offer us narratives of protection: protecting the white nation from violence, protecting the dominant social order, protecting the companies invested in prison profit. In this thesis, I offer a close analysis of “protective” prison policies in order to actively engage with the societal logics that uphold incarceration and that incarceration, in turn, bolsters. The term “queer” provides a useful lens for understanding how these policies function as the PIC contains populations that pose a threat to the dominant social order and national future; homonationalism provides a framework for thinking about which queer people are threatening and which people are designated as part of the future that needs protecting, and populations for whom these lines are blurred. Building on the critical theory of the prison-industrial complex as a project of social control and drawing on Michel Foucault’s framework of “biopolitics,” I zoom into carceral spaces to examine the ways that technologies of containment and logics of disposability within these institutions target threatening queer populations in the name of protection. In the following section, I give a brief overview of Foucault’s theory of biopolitics and theories that have developed from his framework, which serve as the backbone of my analysis.

### Incarcerating the Threat: Biopower and the PIC

As the literature on the prison-industrial complex reveals, the U.S. state “no longer feels obligated to take measures that prevent hardship, suffering, and death. The state no longer protects its own disadvantaged citizens” (Giroux 2006, 182).

Cultural critic Henry Giroux argues that this is part of a valuation of life born of the same factors that produced the PIC: rising neoliberal capitalism, militarism, privatization, and securitization in the 20th century. According to Giroux, “the poor, especially poor people of color, not only have to fend for themselves in the face of life’s tragedies but are also supposed to do it without being seen by the dominant society” (2006, 175). America’s poor have been rendered invisible by news media and completely disposable to a state that endeavors to punish rather than relieve poverty, as seen in the increased policing of poor people of color. This logic, which Giroux deems the biopolitics of disposability, functions through mass incarceration: the prison contains disposable bodies to prevent them from threatening the status quo, and avoids challenges this state of affairs through their invisibility, as well white indifference towards and fear of the racialized incarcerated population.

Drawing on Foucault’s conception of power as capillary,<sup>15</sup> I seek to understand how this calculus of life determines not only who is incarcerated, but who is deemed valuable and in need of protection within carceral spaces themselves. Foucault argues that power works through a variety of technologies, defined as institutions, practices, and societal beliefs that determine “the conduct of individuals and submit them to certain ends or domination” (Foucault 1988). He uses Jeremy Bentham’s panopticon<sup>16</sup> as an example of the “technology of surveillance.” Prisoners

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<sup>15</sup> Foucault understands power as working through institutions and individuals in everyday activities and practices, as opposed to top-down control by powerful individuals. This is a crucial part of my analysis: prison guards play a role in the oppression of incarcerated queer people, but conservative arguments that individuals determine how inmates are treated ignore the widespread societal logics that target racialized and queered populations for violence.

<sup>16</sup> Bentham’s panopticon is a prison with a guard tower in the center and cells in a circle around it, such that the guard may observe each prisoner but the prisoners can never see whether the guard is watching them (Foucault 1991).

in the panopticon are constantly visible but never know if they are being observed, while the guard is rendered an invisible force, always able to watch. Foucault argues that constant visibility, or “surveillance” is a form of power, in which one must always behave according to the rules because one never knows if the guards are watching. The behavior becomes internalized over time, and surveillance creates a self-regulating rule-following subject (Foucault 1991). Carceral spaces also use the Foucauldian “technology of discipline” to shape their subjects. Discipline is the continuous regulation of time, movement, and the body in order to ingrain certain procedures and ways of being (Foucault 1991). Prisons run on a strict schedule and movement is heavily restricted in an attempt to create subjects who are easier to contain.

The various carceral spaces I examine are institutions of power: systems of policies, individuals, businesses, and spaces. Along with other institutions, such as the education system, the family, and the public health sector, they use technologies such as surveillance and discipline to create subjects that behave in certain ways. Foucault’s theories of power and the production of disciplined subjects are the focus of his work in *Discipline and Punish*. Following that, in *History of Sexuality*, Foucault brings these technologies into the individual body, thinking through the idea of society and the gaze of others as a form of surveillance. In his later work on “biopower,” Foucault shifts his focus to populations and the regulation of life and death.

Foucault defines biopower as “the right to take life or let live” (Foucault 1976, 240). Crucially, he specifies that power over life “is actually the right to kill: it is at

the moment when the sovereign can kill that he exercises his right over life” (Foucault 1976, 240). Technologies such as surveillance and separation are used to exercise this power over life according to who belongs to the nation (Foucault 1976, 240, 254). Those who belong, who comprise the nation, must be made to survive while others are abandoned, left to die. The belonging vs. disposability division is, for Foucault, the primary role of racism; it is the mechanism that “introduc[es] a break into the domain of life that is under power’s control: the break between what must live and what must die” (Foucault 1976, 254). However, using Puar’s framework of homonationalism also brings in considerations of normative gender and sexuality in determining who must be made to live. For both Foucault and Puar, the others, those who do not constitute the nation, are marked as disposable and left to die. When Giroux refers to a biopolitics of disposability, he refers to this divide between the valuable and the disposable under neoliberalism, in which invisible poor people of color are left to die by the state.

However, other scholars have argued that Foucauldian biopower cannot explain the central role of death in political and sovereign power, such as wars in which the state doesn’t just abandon, but actively kills. Philosopher and political theorist Achille Mbembé argues for a theory of “necropower,” the power to let live or make die; Mbembé argues that this theory is necessary “to account for the various ways in which, in our contemporary world, weapons are deployed in the interest of maximum destruction of persons...new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead” (Mbembé 2003, 40). The living dead are pushed or forced together into

places that Mbembé calls “death worlds,” spaces that not only fail to save, but actively kill their inhabitants (Mbembé 2003, 40). The prison is frequently conceptualized as a death world, where disposable populations, marked as killable, are subjected to treatment that is actively harmful.

Queer theorist Lauren Berlant seeks to complicate this conversation between biopower and necropower in an analysis of the politics of obesity. Berlant examines the ways in which biopolitical technologies are not only active but slow and ordinary in their abandonment. Her theory of “slow death” describes the deterioration of a population over time that is “very nearly a defining condition of their experience and historical existence” (Berlant 2007, 754). She argues that slow death is well hidden in the neoliberal capitalist “reproduction of ordinary life,” and seems to those who observe it and those who live it to be just a part of living (Berlant 2007, 757). Conditions of slow death, Berlant argues, are not a crisis but “a fact of life and [have] been a defining fact of life for a given population that lives it as a fact in ordinary time” (Berlant 2007, 760). Her theory of slow death informs my analysis of life in prison, as “people do live in it, just not very well” (Berlant 2007, 780). When I speak of disposability and of killability, I refer not to a moment or location of direct action, but a lifetime of slow death. People who have lived in quarantine, survived sexual violence in prison, and been housed in protective custody were not killable in the same way as those in a concentration camp, but were constantly vulnerable to state violence. Indeed, fighting for survival in a carceral institution may be critical for incarcerated people, but it has also become normal, daily life.

Because these spaces of disposability and slow death are tied with the denial of civic and social citizenship, I also draw on Orlando Patterson’s framework of social death. Patterson conceptualized social death as a way to describe the dehumanization and suspension of personhood inherent in slavery. His 1982 book *Slavery and Social Death* interprets slavery as a transhistorical condition in which people are not considered fully human; it is “one of the most extreme forms of the relation of domination, approaching the limits of total power from the viewpoint of the master, and of total powerlessness from the viewpoint of the slave” (Patterson 1982, 3). This concept has been influential since the book came out, recently in work exploring the ongoing effects of white supremacy and racial capitalism. Lisa Marie Cacho draws on this theory to argue that criminalized groups in contemporary society, such as gang members, are not just socially dead but ineligible for personhood: they lack the “political legitimacy and moral credibility necessary to question [the law]” (2012, 6). By sentencing people to incarceration, the PIC declares them to be socially dead (Cacho 2012). This social death revokes their right to freedom of movement, rescinds democratic civil rights like the right to vote, and casts them out of society. In this framework, the prison is a space of social death, where the socially dead are contained to protect the socially living. While I do engage with this framework, I push back against the lack of agency that Patterson ascribes to the socially dead, emphasizing the ways that incarcerated people resist these institutions and their conditions.

In this thesis, I analyze the ways that bio and necropower are built into the functionality of the prison—its policies, its practices, its relationships, and its

power—as well as into the broader system of policing and incarceration. Within these institutions, who is deemed to need protection, and what does that mean for those they purportedly need protecting from? I argue that reforms that claim to help the most vulnerable—people with HIV, survivors of sexual assault, and trans women incarcerated in men’s facilities—reproduce and bolster white supremacy, heteropatriarchy, and racial capitalism, perpetuating further violence against those who are already targeted. “Recuperative reform” reestablishes the disposability and conditions of slow death that threaten the lives of incarcerated queer and trans people, particularly people of color. These policies relocate the source of violence from the state to those who, in these same racist and queer/trans-phobic logics, are perceived as threats to the social order. My title, “In the Name of Protection” refers to how these policies, purportedly protecting vulnerable populations, actually protect white supremacy and heteropatriarchy by masking state violence.

### Chapter Outlines

In chapter one, I scale down theories of biopower and disposability, moving from the national level to the space of the prison. In the process, I examine how the technology of quarantine is used to contain threats to national futurity in the name of protecting an often unclearly defined “good” population. Taking the HIV epidemic as my primary example, I move from national policy to prison quarantine policies, bringing longer histories of biopolitical containment and disposability to bear on the U.S. response to the virus. Based on the stories of incarcerated people with HIV both during and after quarantine, I argue that reform to remove quarantine policies

perpetuated the white supremacist, heteronormative, and ableist logics that continue to mark people with HIV as “threatening.” Yet, as shown in the example of the AIDS Counseling and Education Program at the Bedford Hills Correctional Facility for Women, those living under these regimes of slow death actively resist these logics and find new ways of creating life.

Chapter two turns to the issue of sexual violence within the prison and the effects of the Prison Rape Elimination Act of 2003, which created a “zero-tolerance policy” for rape. Building on Kali Nicole Gross’s idea of “the exclusionary politics of protection,” I argue that this legislation was never intended to protect those who are most vulnerable in prisons: queer people, trans people, women, and people of color. Instead, PREA reverses victims and perpetrators, using the myth of Black rapists who threaten the white national future to relocate the source of violence from the institution of the prison to those who are most vulnerable to carceral violence. Further, PREA and other such reforms cover up sexually violent technologies of surveillance, such as the strip search, under a rhetoric of protecting the safety of the institution.

The third chapter takes up “protective custody,” which has been offered as a solution to the high rates of sexual violence against queer people in the general population. While this practice does offer a reprieve from interpersonal violence, it uses the technology of gender policing to justify placing incarcerated trans people in solitary confinement. Protective custody offers incarcerated trans women a choice between sexual violence in the general population and the torture of isolation; the stories of three trans women who were housed in protective custody—Jane Doe,

CeCe McDonald, and Chelsea Manning—reveal its violent reality. This purportedly protective policy leaves incarcerated trans women to their slow death in total isolation.

Throughout, I foreground the stories of incarcerated people who lived under these policies, deemphasizing theory in order to emphasize the violence of life and slow death under state “protection.” Furthermore, this style centers the ways in which incarcerated people have experienced and resisted these reforms and logics of disposability. These stories reveal that three policies analyzed in this thesis do not address the logics of white supremacy and heteropatriarchy that mark incarcerated queer people as disposable and “threatening” to the dominant social order, the smooth functionality of the prison, and sometimes to themselves. Reform cannot undermine and unmake these logics and, in fact, often bolsters them, legitimizing and expanding the PIC. As such, in the conclusion, I call for activism that centers visions of abolition while advocating for harm reduction for people who are currently incarcerated.

Chapter One  
Quarantining Queerness  
Housing Segregation of Incarcerated People with HIV

Limestone Correctional Facility lies ten miles outside of Huntsville, Alabama. The compound of squat stone buildings opened its doors in 1984, and since then has held up to 2,388 incarcerated people. From 1985 to 2003, a drafty warehouse on the grounds housed a very specific group of inmates: every incarcerated man<sup>1</sup> in the state Alabama who tested positive for HIV. The warehouse, known as Dorm 7, lacked insulation, which made the people inside vulnerable to extreme temperatures and frequent infestations of birds and rats (von Zielbauer 2005). In the words of Michael Marsh, who was incarcerated in this building: “You know the phrase in the Bible about the Valley of the Shadow of Death? That’s what this is like” (Applebome 1989). For over 30 years, Alabama state law mandated that all people with HIV incarcerated in men’s prisons—regardless of their age, sentence, or security status—live in this dorm, in strict segregation from the general population.

Housing and social segregation policies for people with HIV were widespread in the 1980s and ’90s, though the horror of the physical conditions at Limestone was an outlier. As of 1985, Alabama was one of 38 states with a policy automatically segregating incarcerated people with HIV into a separate housing facility (Braithwaite 1996, 94). Many of these states also mandated testing upon intake to ensure that all people with HIV were identified and housed according to these policies. Because of lawsuits regarding gross human rights violations in HIV quarantine, all state and

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<sup>1</sup> At the time, federal law stated that incarcerated people should be separated into gendered facilities based on an examination of their genitals. Given this procedure, it’s likely that most transwomen and some gender-nonconforming people with HIV were also incarcerated in this building. The treatment of incarcerated trans people is examined closely in chapter three.

federal prison systems have since removed their housing segregation policies. Alabama was the last state to stop quarantining incarcerated people with HIV, reforming their policy in 2012 after a federal court ruled that the practice violated the Americans with Disabilities Act (ACLU 2012). However, while policy reform led to changes in institutional practice, it did not disturb the institutional logics of white supremacy, heteropatriarchy, and ableism that upheld quarantine and targeted “threatening” people for increased containment and surveillance.

In this thesis, I return the theories of biopolitics, disposability, and slow death to Foucault’s original location of study: the prison. This chapter zooms in from national quarantines to the stories of incarcerated quarantined people, analyzing the histories and logics that supported the physical and social quarantine of HIV in prison. Although these policies are officially referred to as “housing segregation,” I use the term quarantine to emphasize that the segregated population is, as Foucault put it, “left to die.”<sup>2</sup> The realities of quarantine within the prison reveal the violence that is masked beneath a project of eliminating a threat to the healthy population. Quarantine policies are emblematic of the ways in which society marks and contains a purportedly dangerous group in the name of protecting the ableist, heteropatriarchal, white supremacist social order.

Moving from the national to the individual level, I examine how quarantine’s protective claims mark certain populations as a threat in the name of protecting an often ambiguously defined group. This analysis also demonstrates that reforming

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<sup>2</sup> This is not to deny the connections between housing segregation and the history of racial segregation, particularly given that Black people are disproportionately likely to both be incarcerated and to have HIV. For more information on how racialized and gendered histories have shaped the modern prison-industrial complex, see Haley (2016).

quarantine policies to house incarcerated people with HIV in the general population does not address the logics underlying this technology. Although housing segregation was eliminated, people with HIV are still marked as disposable; policy reform did not address the dynamics of containment, surveillance, and control that are embedded in these carceral institutions and indeed justify their very existence.

### Quarantine as Eugenic Policy

Separating people with infectious diseases as a method of preventing contagion is not an inevitable response to the existence of disease. Quarantine builds on an ableist logic to isolate those who pose a threat to a “pure” future population. This technology has a eugenic foundation, working to maintain the status quo and avoid dysgenesis, which independent scholar and HIV anti-discrimination activist Nancy Ordover defines as the “deterioration of allegedly heritable qualities from one generation to the next” (Ordover 2003, xiv, xiii). Dysgenesis is prevented and “an able-bodied future is again secured through the elimination of the disabled body” (McRuer 2002, 232). In the case of quarantine, the threat posed by the disabled body—or, more broadly, the non-normative, threatening body—is eliminated through isolation. However, the heritable quality at hand is not illness itself, but the disposability inherent in being designated as a threat to futurity.

The technology of quarantine has been used to isolate populations deemed threatening dating back to the writing of the Old Testament. In the Bible, quarantine most frequently references the separation of individuals with leprosy into lepers’ colonies. Leprosy was associated with physical and spiritual dirtiness; those who had

leprosy were declared “unclean” by priests during medical examinations (Lev. 13:3). According to the BibleHub.com page on leprosy, the disease was regarded as a personal punishment from God, a queering of the Judeo-Christian soul. This moral overtone reveals that quarantine was not just a method of preventing disease, but of ensuring the future of an able-bodied, clean, and Godly population by containing the perceived threat of those with leprosy. The physical separation and social stigmatization of people with leprosy was imagined to prevent dysgenesis by eliminating the possibility of intimacy between those given power by the dominant social order and those marked as disposable.<sup>3</sup> By analyzing quarantine as a reaction to a threat to futurity, it becomes clear that these policies are born from an intersection of ableism and other logics such as white supremacy, heteropatriarchy, and classism; in the case of leprosy, those designated as dangerous and quarantined were primarily peasants. The connotations of the disease built stereotypes of the poor as unclean and immoral.

The intersections of ableism and classism were also made visible during the Bubonic plague. Quarantines of 30-40 days became standard practice in European port cities for incoming ships in order to ensure no one aboard developed symptoms (Gensini et al. 2004, 259). Like leprosy, the plague disproportionately affected the poor and had social connotations of uncleanliness. These temporary quarantines marked sailors as disposable until proven “clean”—a potential threat to the future of the port city’s population until their purity declared them a part of it.

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<sup>3</sup> Here, we see that both quarantine and racist logics of miscegenation—which sought to protect the dominance and purity of the white American national body—are eugenic technologies.

The purported threat posed by quarantined populations differs by time and circumstance; in the quarantine of syphilis in South Carolina in the 1940s, queer sexual behaviors marked people as threatening, and therefore disposable. A number of quarantine hospitals were built due to the state's high incidence of syphilis and large military presence during World War II (Chisolm 1947, 557). When these hospitals first opened, the majority of the patients came from police courts and had been arrested on suspicion of violating laws banning prostitution (Chisolm 1947, 558). They were mostly women who engaged in queer sexual activity and were perceived as hypersexual. These women lay at the intersection of medical and social disease, perceived as threatening to the heteronormative future not only through contagion but through the threat to pass their queerness on to potential children. Quarantine in this case more directly sought to eliminate intimacy between queered people and the "clean" population, attempting to prevent the spread of disease and the reproduction of queer behavior. These hospitals were specifically established in order to protect the military; they isolated queered women to ensure the healthy futures of men, the purity of future children, and the dominant social order the war was fighting to protect.

Quarantine, thus, is not a unilaterally applied policy, but a eugenic technology exercised on certain groups that are deemed dangerous to the health of the "good" or natural or normal population. The marking of threat masks the violence of isolating and abandoning these people under a narrative of producing and protecting a "healthy" future population. It is useful then to think of quarantine as following a

biopolitical logic in which disposable populations are left to die, constructing the future of the dominant social order in the process.

### Queering and Quarantining HIV

In June 1987, Senator Jesse Helms (R-NC) called for a national quarantine of people with HIV. Much like the prison test for HIV upon intake, the bill Helms proposed required certain populations—gay men, immigrants, and others—to be tested for HIV at regular intervals (Whitney 1987). Following the introduction of his bill, polling data found that around half of Americans supported a national quarantine of HIV+ people and 29% of respondents favored mandating that all people with HIV get a certain tattoo (Steinbrook 1987). Thinking alongside Foucault, these policies act as forms of surveillance that seek to render people with HIV constantly visible in order to protect the health of the national body. Both of these policies advocate a physical marking of threat as well as separation of people with HIV—either spatially in the case of quarantine or socially through tattooing. These policies would have marked people with HIV as socially dead, undeserving of full civil rights or societal inclusion. However, that these views were so widespread implies that perhaps people with HIV were already socially dead in the public eye. Once diagnosed, their lives and rights no longer mattered; they became disposable in the project of containing the virus and ensuring a “healthy” American future.

Although neither national quarantine nor mandated tattooing for HIV+ people were ever implemented in the U.S., a collection of public and policy responses marked people with HIV as a threat to the American public and served as new

mechanisms for marking queer people and people of color as disposable. What is now known as Acquired Immunodeficiency Syndrome (AIDS) was first reported in the United States in a weekly Centers for Disease Control and Prevention (CDC) report in June 1981; at the time, it was given the name Gay-Related Immune Deficiency (GRID) (CDC 1981). AIDS is the fourth stage in the progression of Human Immunodeficiency Virus (HIV), a virus passed through bodily fluids that attacks the immune system (Whiteside 2008, 28). When the virus is introduced to the body, HIV antibodies develop over a period of a few weeks, known as seroconversion, weakening the immune system and making the individual more vulnerable to infection (Whiteside 2008, 25).

The virus is associated with queerness because of its transmission through sex or sharing of blood, forms of queer bodily intimacy. Although the primary method of transmission differs around the world, the stigma of individuals and populations with HIV as hypersexual, unclean, and dangerous is consistent. In the United States, HIV has always been most commonly associated with gay men; the initial report cited an unusual number of cases of rare diseases among young, homosexual men (Whiteside 2008, 1). However, in sub-Saharan Africa, HIV is most frequently transmitted through heterosexual intercourse and is commonly associated with adolescent girls, sex workers, and trans women (UNAIDS 2016, 4). As such, different populations are targeted in the response to the virus depending on common methods of transmission and populations with high incidence; in all cases, these populations are queered because transmission of HIV is associated with queer sexualities and sexual behaviors.

In the United States, the response to HIV was steeped in homophobia beginning with the initial CDC report, as was clear in the virus's original name, GRID. The CDC report suggested the existence of "an association between some aspect of a homosexual lifestyle" and the symptoms observed (CDC 1981). Tensions arose as politicians struggled to prevent the spread of the virus without appearing to "endorse homosexuality" by taking actions that were seen as protecting queer people. Although cases were reported beginning in 1981, the Reagan administration failed to take any action with regard to AIDS until 1983; in fact, Reagan did not use the term "AIDS" in public until 1986 (Brier 2009, 80). When it did begin to respond, the administration tried to implement a "public health response," a biopolitically coded phrase that reveals a focus on making the white, heteronormative population live; queer people and people of color with HIV were disposable in this response, which considered observing their rights to freedom and privacy to be too "political" (Brier 2009, 85).

Congressman Newt Gingrich (R-GA) demonstrated this biopolitical approach in his argument that "closing bathhouses or mandating reporting of AIDS was a more reasonable policy than trying to provide sex education in bathhouses or keeping the names of people who tested positive for HIV anonymous" (Brier 2009, 86). Gingrich's standpoint is emblematic of the heteropatriarchal, white supremacist logic of the U.S. policy response: for him and for others, the goal was to protect those who did not have HIV from contamination. The resulting state violence against people with HIV was made invisible by this focus on protecting others from their threat. Further, Gingrich's suggestion to mandate reporting reveals a mistrust of people

living with HIV to mitigate their purported threat; the “healthy” population needed protection not only from the virus itself, but from the queered individuals who could spread it. This view played into the queer criminal archetype of the disease spreader. Based on the presumed immorality of queer people, lawyers and activists Joey Mogul, Andrea Ritchie, and Kay Whitlock argue that with the outbreak of AIDS, “gay ‘promiscuity’ [was] now clearly marked not only as criminal but also homicidal” (2011, 35). This conception of queerness as unmitigated threat, accepted and implemented by the Reagan administration, reproduced the idea of a healthy, American “us” in need of protection from a diseased, queer other.

People with HIV were further targeted by HIV criminalization laws that were passed throughout the 1980s and '90s. These laws require individuals to disclose their HIV status in various situations and are intended to open paths to prosecution for individuals who knowingly spread HIV. According to the CDC, 25 states currently have laws criminalizing behaviors that “pose a low or negligible risk for HIV transmission.” These violent laws do not prevent the spread of the virus; in fact, they perpetuate it by discouraging people from being tested and knowing their status. People with HIV are criminalized regardless of the risks associated with behavior because—building on stereotypes of the queer disease spreader and assuming malicious intent of queer people—they themselves are perceived as the risk. Their civil rights and indeed their lives are disposable in the project of preventing the

spread of the virus and of queerness—indicating quite clearly whose lives are deemed worth saving and protecting.<sup>4</sup>

While gay men have been made constantly visible as a threat, analyzing this history alone provides a limited understanding of the queerness of HIV that ignores the experiences of women and people of color. Other populations with high incidence of the virus are left to die through their invisibility in the public sphere. Without prevention and treatment resources from the government and nonprofits, these groups were “silenced, invisible, and neglected in the early years of the epidemic” (Cohen 1999, 146). Throughout the 1980s, research and information campaigns focused on white gay men, without mention of other affected populations, who were disproportionately poor people of color. Women were almost completely erased in this initial response. Messaging ignored trans women, and symptoms such as pelvic inflammatory disease—which affects people with uteruses who have HIV—were not connected to the virus for years due to this exclusion (Cohen 1999, 136).

Additionally, women who have sex with women make up 20-30% of American intravenous drug users, and have high incidence of HIV (Friedman et al. 2003), but were not included in the response. This erasure and abandonment was built on larger logics of hegemonic racism, classism, and heteropatriarchy. Even as the response marked those who it targeted as disposable, it failed to acknowledge the suffering and death of other affected populations.

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<sup>4</sup> Activists around the world are fighting against HIV criminalization laws. See the Canadian HIV/AIDS Legal Network, the Global Network of People Living with HIV, the HIV Justice Network, the Positive Women’s Network USA, and the Sero Project for more information about this crucial work.

Although intravenous drug use is now included in most HIV awareness campaign, racist erasure and stereotypes are still present in HIV research and education. The public image of HIV, formed by the government and media response, is still of young, white gay men in New York and San Francisco. However, HIV continues to disproportionately impact people of color, particularly queer-identified men and trans women. In 1982, just after the outbreak began, Black people constituted 23% of new HIV cases, but only 12% of the U.S. population (Cargill and Fenton 2009, 2). Today, the CDC estimates that one in two gay Black men will seroconvert in their lifetime. As the technology targeting Black men in relation to HIV shifted from invisibility to surveillance, a narrative arose in the media of hypersexual Black men spreading HIV to their heterosexual partners after secretly having sex with men. This narrative perpetuated distrust and presumed malicious intent of people of color (Mogul et al. 2011, 35). These “down-low” men and their lack of disclosure were perceived as a threat to unknowing, innocent women and their children (Cohen 1999, 230).<sup>5</sup> By presenting this as a concern specifically with Black men, this narrative reproduced racist stereotypes of Black people having deviant and excessive sexual desires and behaviors (Canavera 2005, 64).

The queerness of HIV also intersected with xenophobia, and, as with quarantine of the plague, immigrants were targeted as potential disease spreaders. In 1986, Congress added AIDS to the list of Dangerous Contagious Diseases, despite its fluid-borne nature (Brier 2009, 104). Under this law, the Immigration and

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<sup>5</sup> Public health officials conducted many studies on Black men, pathologizing their queerness and creating fear among Black women. For more critical analysis of down low, see Cohen (1999), Snorton (2014), and Han (2015).

Naturalization Service (INS) could prevent immigrants who tested positive for HIV from entering the country. This was large-scale population control that marked and excluded queer immigrants, particular queer immigrants of color. This policy built on larger logics of nationalism and national purity; excluding queered bodies reproduced and ideologically ensured the future of white, heterosexual, able-bodied America.

The intersection of racism, xenophobia, and queered populations was demonstrated in the quarantine of HIV+ Haitian refugees.<sup>6</sup> In 1991, thousands of refugees from Haiti traveling to the U.S. by boat were detained by the Coast Guard and taken to Guantánamo Bay. Some were sent back to Haiti immediately, but anyone being considered for asylum in the U.S. was subjected to a mandatory medical exam, including a blood test for HIV. Those who tested positive were moved to Camp Bulkeley, a separate facility that was “the world’s first and only detention camp for refugees with HIV” (Hannabach 2013, 23). Many women in this camp were forcibly sterilized, a brute manifestation of the eugenics at work in HIV quarantine (Hannabach 2013, 23). This was part of a larger project of controlling the reproduction of certain racial populations, including the forced sterilization of Black and Hispanic women in the U.S.<sup>7</sup> Today, immigrants with HIV who are incarcerated in immigration detention centers continue to be marked as queer and disposable. As

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<sup>6</sup> There is a long, racist history of the U.S. associating Haitians with disease, and particularly with HIV. In the early 1980s, HIV was referred to increasingly as the four-H disease, representing the four groups most associated with the virus: homosexuals, Haitians, heroin-users, and hemophiliacs (Cohen 1999, 128).

<sup>7</sup> Sterilization during and following delivery is a widely practiced form of racial eugenics that has been practiced throughout U.S. history. In 2013, the Center for Investigative Reporting found that more than 150 women had been forcibly sterilized in California prisons between 2006 and 2010. See <http://cironline.org/reports/female-inmates-sterilized-california-prisons-without-approval-4917>. Ending forced and coerced sterilization of women of color is a major tenant of the reproductive justice movement. For more information and examples of state sterilization and racial eugenics, see Lawrence (2000) on the Indian Health Service.

Antonio, a 33-year-old man from El Salvador who was detained in San Pedro, CA, said, “[The guards] look at us as if we’re inferior, not only because we’re gay but because we’re immigrants. To them, we’re nothing but maggots from another country that need to be swept out” (Human Rights Watch 2007, 36).

Policies surrounding HIV demonstrate how some populations are marked off and left to die, purportedly for the sake of protecting the health and future of others. This exclusion, in the name of national purity, is based on prior logics of white supremacy, xenophobia, heteronormativity, and ableism that it also bolsters. In what follows, however, we will see that the technology of quarantine not only confines populations to spaces of social death such as detainment centers and prisons, but also functions within those carceral spaces to mark some prisoners as worthy of life and others as confined to slow death.

#### In the Valley of the Shadow of Death: Life in HIV Quarantine

When HIV quarantine was instituted in prisons, it was billed as a safety policy in the face of widespread fear about the virus. However, it was acknowledged even at the time that this “solution” lacked a medical foundation; Dr. Edward Wurzel, Director of Health Services for the Connecticut Department of Corrections, exemplified this when he instituted a quarantine policy in 1985: “As far as what’s known about AIDS, there is no medical reason to isolate these prisoners.... But there is a tremendous emotional reason - the concerns of the staff and of the other prisoners” (O’Neill 1985). Wurzel’s statement implies that he not only prioritized the concerns and emotions of the healthy, but did not even consider the consequences of

quarantine for queered people with HIV. Their rights were utterly disposable and the violence they faced was completely masked by this narrative of protection.

The violation of privacy in outing incarcerated people with HIV was also hidden beneath a logic that stated that, in the words of Limestone warden J.D. White, “the general population has constitutional rights equal to the HIV-positive population and has the right not to be exposed to those people” (Applebome 1989). While all incarcerated people are denied full constitutional rights and citizenship, White’s comment affirms that people with HIV are not valued as others are, even within the prison. Taking seriously “the right not to be exposed to those people” marks people with HIV as other, and as disposable because of the threat they pose. Yet, the protection offered by these policies is nebulous. Wurzel mentions guards and White discusses the general population, but there is no consistent group that is described as in need of protection; the technology of quarantine is used as a means of control and cover for violence without actually specifying who is being protected by it. Scaling down the social dynamics of quarantine that we saw in Helms’s proposal to the conditions within the prison, we see that the civil rights violations, social ramifications, and disposability of life in HIV units required no public justification because they were masked beneath the seemingly unproblematic goal of providing safety. Unopposed, these mechanisms reproduce people with HIV as queer and abandoned them to a slow death.

What does this slow death in HIV quarantine look like? In states with mandatory quarantine policies, incarcerated people were tested for HIV upon arrival in prison. If they tested positive, they were immediately segregated and placed in a

temporary housing unit until a bed was available in the designated HIV dorm. In many cases, incarcerated people were placed in solitary confinement while they waited—anywhere from a week to several months (Potts 2011, 105). Ronald B., who was incarcerated in South Carolina, recounted his experience of being suddenly diagnosed with HIV and placed in solitary:

I was with everyone else, in a big dorm, and they are letting us recreate and go to chow and all that. Suddenly they come and pull you out... they put you in what was literally a dungeon, a dark cell way down some stairs, and that's it. I was in there 23 hours a day after that, they fed me through the door, I couldn't even take a shower every day. You'd have to yell upstairs to reach anyone, and sometimes they came, and sometimes they didn't (ACLU NPP and Human Rights Watch 2010, 23).

Beginning on their first day of incarceration, the physical separation of people with HIV directly impacted their lives. Ronald describes the social separation and physical conditions that he was subjected to as a result of the quarantine policy; regardless of his security level, being HIV+ marked him as enough of a threat to warrant immediate solitary confinement. His status made him disposable in the project of offering protection, even though who was being protected was not clearly or consistently defined.

In some cases, this protection was billed as actually being for the people who were placed in quarantine.<sup>8</sup> In 2010, Alabama and South Carolina argued that “segregation is justified by the need to provide medical care” (ACLU NPP and Human Rights Watch 2010, 3). However, many incarcerated people lacked access to quality medical treatment under quarantine policies and indeed were placed at *higher* risk of infection because of quarantine. In Alabama’s Limestone Dorm 7, a number of

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<sup>8</sup> This dynamic, where a policy perpetuates violence against the very population that it claims to protect, will be examined at length in chapter three.

people died of untreated conditions due to wait times to see a doctor or receive medication (Von Zielbauer 2005). In a different facility, one woman described being diagnosed with HIV during intake and waiting months to see a specialist. When she finally did receive medical care, she was only prescribed a multivitamin to strengthen her immune system (Law 2010, 35).

While inadequate medical treatment can be thought of as a kind of slow death, HIV quarantine also created a more immediate and active threat to life by housing many people with a virus that impairs the immune system in the same space. Infections spread rapidly, particularly if it took several days to be treated for symptoms that could be contagious. For example, 32 people were infected in an outbreak of tuberculosis in the HIV quarantine unit of South Carolina's Broad River Correctional Facility in 2000 (ACLU NPP and Human Rights Watch 2010, 43). Thus, the technology of quarantine both produces a threat to life and buries it under a narrative of protection from contagion—though who exactly is protected from threat is blurry and poorly defined. The disposable queer population is further confined within the prison and further endangered in the name of protecting some nebulous group; they are left to fend for themselves and often to die from preventable conditions. Because of their socially constructed threat, people with HIV face a direct threat to their health and lives through quarantine.

Frequently, quarantine policies went hand-in-hand with policies that prevented incarcerated people with HIV from participating in jobs, recreational

programs, and social groups within the prison.<sup>9</sup> In Alabama, people with HIV were not allowed to work in the kitchens or dining halls, which perpetuated stigma and misconceptions about transmission (Potts 2011, 106). In fact, this policy was enforced for all openly gay prisoners, conflating gay men with HIV and “mak[ing] clear that to prevent the spread of a virus is to prevent the spread of queerness” (Potts 2011, 106). This policy reveals the eugenic logic of heteronormativity that HIV quarantine is both built upon and reproduces.

In addition to further confining them within the prison, HIV quarantine often extended the sentences of incarcerated people. Being ineligible for jobs meant that people with HIV could not participate in prerelease programs that could make them eligible for early parole (Kunzel 2008, 231). In addition to shortening incarceration, prerelease work programs make it easier to get a job while on parole and can reduce a person’s chances of returning to prison. Allen, an incarcerated man who was barred from participating in these programs, said this greatly impacted his experience of being released: “Work release determines whether you’re going to make it or not. If you can be near your family, they can fight for you and that can keep you from going back to prison” (ACLU NPP and Human Rights Watch 2010, 38). For Allen, HIV quarantine not only marked him as disposable within the prison, but also left him without crucial resources when he was released.

Beyond being unable to work, stigma and separation from the community of the general population were major impacts of quarantine; in this way, quarantine had

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<sup>9</sup> While this section discusses the social ramifications and future disadvantages of not being allowed to work or hold certain jobs while incarcerated, I do not endorse the unpaid and low wage labor that the PIC extracts from incarcerated people.

a social as well as a spatial component. One person incarcerated in an HIV unit in South Carolina spoke to the emotional difficulty of being socially isolated:

They literally put up a fence around us and cut us off from everything and everybody. It was like they said “we’re going to take all you guys who have this virus and put you on an island by yourself.” It took a lot out of me, it really did. (ACLU NPP and Human Rights Watch 2010, 32)

This kind of isolation and stripping away of support networks, particularly for a group largely composed of queer people, is a form of leaving to die. In some cases, this isolation was extended to an individual’s relationships outside of prison, as incarcerated people with HIV were sometimes only allowed to have “noncontact” visits (Kunzel 2008, 232), preventing intimacy with their friends and family. This policy can be read as institutional protection of visitors from the threat that people with HIV purportedly pose. However, given that contact visits do not allow sexual contact or the sharing of bodily fluids that transmit HIV, who is being offered what kinds protection by this policy remains nebulous.<sup>10</sup>

In this name of this murky promise of protection, prison policies also function to render HIV status constantly visible. Quarantine necessitates the involuntary disclosure of the health status of every incarcerated person with HIV. By separating these inmates into a specific dorm, the policy constantly reminds others both in and outside of prison of their health condition. Since some states list inmates by dorm on their website, information about who is housed in the HIV unit is available to anyone with an internet connection. This can out incarcerated people to their friends and

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<sup>10</sup> Chapter two discusses the policing of intimacy in prison in much more detail, arguing that it is less a side effect of protection than one of the consequences of the heteropatriarchal, white supremacist logics of the institution.

family on the outside. Lorna P., who was incarcerated in South Carolina, described her family discovering her status because of her visibility in prison as HIV+:

You haven't even dealt with it, you're still in denial, disbelief, but everybody knows and they call your family and friends. You get letters from your people saying "we heard you're dying of AIDS" (ACLU NPP and Human Rights Watch 2010, 25).

This constant visibility is even more pronounced inside of the prison, where other physical markers are enforced. For example, in Alabama, women with HIV were forced to wear surgical masks when not in their quarantine unit, while men were forced to use disposable cutlery (Kunzel 2008, 232). Much like the proposed national tattoo policy, this kind of marking makes people with HIV vulnerable to stigma and harassment. Michael G., who was incarcerated in Mississippi, recalled guards telling him and others in the HIV unit to "'get our sick asses out of the way' when they pass us in the hallway" (ACLU NPP and Human Rights Watch 2010, 28).

These stories demonstrate that the lives of incarcerated people with HIV were not valued and were marked as disposable in the name of a nebulous project of protection. Life in HIV quarantine was a kind of slow death, characterized by isolation, lack of medical care, and stigma and harassment from guards and other inmates. Michael Arrington, who was incarcerated in Alabama, saw these conditions as a punishment, indeed a death sentence, in their own right: "Incarceration is punishment for the crime I committed. Anything beyond that is another sentence. I feel like I'm being retried, resentenced and sent to Death Row" (Applebome 1989).

As stories of the horrors of HIV quarantine came out in the late 1990s and 2000s, states slowly reformed their prison policies to remove housing segregation. Instead, they kept or instituted other policies designed to offer "protection" from the

threat of HIV; these reformed policies continue to mark people with HIV as threatening and disposable under an ambiguous narrative of protection. For example, Alabama's laws about incarcerated men with HIV using disposable cutlery are still in place (Potts 2011). Furthermore, while Alabama now allows incarcerated people with HIV to take part in prison programs, the new policy includes stigma-supporting social restrictions. For Ken D., who lived under this policy, this meant he was allowed to attend substance abuse classes but was not allowed to stay afterwards and socialize with others. He described how the stigma interfered with the benefits of the program: "This messes with your head. You can't get the benefit of it because you get upset about how they treat you" (ACLU NPP and Human Rights Watch 2010, 26).

Because these reforms did not disrupt the ableist, heteronormative, white supremacist logics that quarantine was founded upon, they did not change conditions for incarcerated people with HIV. Their continued disposability is visible in the story of a woman incarcerated in the 1990s in the Danbury Federal Correctional Institute in Connecticut, which had already eliminated its quarantine policy at the time:

She has HIV and goes to the male gynecologist to be told that she needs surgery on her cervix. She says to him, "I have to be completely sedated for this operation." And he says, "No you don't." And she says, "Yes, I do. I have a history of sexual abuse and I have a panic attack when I have to lie on my back with my legs spread open and chained in front of strangers." And he laughs at her. He tells her, "Well, then, we can't do the surgery." And she writes, "I hate my doctors. And that's a problem. For me, but not for him" (Buck and Whitehorn 2005, 264).

Her final two sentences cut to the heart my argument about the treatment of incarcerated people with HIV: their lives are not treated as valuable. The elimination of quarantine did not address this disposability, and so these reforms failed to eliminate the violence that incarcerated people with HIV face. If anything, they

further masked this violence by perpetuating a narrative that states and prisons were working to address the conditions in quarantine and offer protection to incarcerated people with HIV.

Since reforms are born of the same logics as quarantine, they cannot attack them. Instead, active resistance of these ableist, heteronormative, and white supremacist logics is necessary to value the lives of people with HIV. In the next section, I examine a program started by incarcerated women that sought to attack the perceived disposability of people with HIV by actively valuing their lives and honoring their deaths.

### Active Resistance and Social Life

And you can count on me to share the load.  
And I will always help you hold your burdens.  
And I will be the one to help you ease your pain.

Lean on me, I am your sister.  
Believe in me, I am your friend.

– Cris Williamson, “Sister”  
Theme song of the ACE Program

In the mid-1980s, the treatment of incarcerated people with HIV at the Bedford Hills Correctional Facility for Women, in Westchester county, NY, was much like other prisons throughout the United States. Stigma was rampant. Rumors warned to stay away from women suspected of having HIV, some women used plastic bags to cover cafeteria trays in an effort to prevent infection, and there was a “growing undercurrent of anxiety” (ACE Program 1999, 33, 34). In 1987, a group of women—some living with HIV, and some not—decided to stand against ignorance and develop a peer-education program. They started a group called the AIDS

Counseling and Education Program, working with the superintendent to design a curriculum of HIV education for inmates. They stated four goals:

To save lives through preventing the spread of HIV; to create more humane conditions for those who are HIV-positive; to give support and education to women with fears, questions, and needs related to HIV/AIDS; to act as bridge to community groups to help women who are HIV-positive reenter the outside community (ACE Program 1999, 19).

ACE would eventually become a model program for other prisons, but at its core, it was ground-up resistance of the disposability and slow death of people HIV. At the time, Bedford Hills held incarcerated people with AIDS in In-Patient Care (IPC) if they were sick, but did not have a quarantine policy for all people with HIV.

However, even as they founded the program, some ACE members wanted the prison to institute a quarantine (ACE Program 1999, 35). As the group united around the idea that “our greatest enemy was fear and ignorance” and members were educated about transmission and prevention, the push for quarantine was replaced by a focus on supporting and valuing people with HIV (ACE Program 1999, 35).

In their first meeting with the superintendent, the members of ACE were given permission to visit IPC and spend time with patients. This was regarded as a huge step:

IPC was known as a dungeon.... Just being there and talking to the women made a big difference—for once the women no longer felt isolated and alone. They felt that someone cared. Many struggled to live fully rather than be buried alive in isolation (ACE Program 1999, 35).

Visiting IPC worked to counteract the abandonment and slow death of people with HIV by breaking down barriers between those marked as threatening and those perceived as needing protection. By entering IPC, ACE members showed that they valued the women who were there and did not consider them a threat; this helped

create a sense of solidarity among members and patients. At the same time, ACE members worked to clean and paint IPC (ACE Program 1999, 130). Their presence and the improvement in the physical conditions signaled to both people with HIV and others that these women were not disposable, but continued to be a part of the community.

As the program grew and developed, members began holding memorials for women who died of AIDS-related infections, as well as education for incarcerated people entering the prison, peer counseling, medical advocacy, and prerelease counseling. All of these programs worked to counteract stigma, create solidarity, and provide emotional support for incarcerated people with HIV. Unlike policy reform, ACE sought to eliminate violence and resist ableist logics by placing the lives of people with HIV—as opposed to the lives of others—at the center of their work and community.

This process was not without challenges, and ACE faced barriers from both medical and carceral institutions. For example, ACE members struggled to get doctors to address treatment issues, as symptoms were often viewed as “‘women’s problems’ instead of HIV-related” (ACE Program 1999, 21). This ties into the larger history of women’s erasure in the HIV response, and gendered public images of the virus. In response, ACE set up a medical advocacy program, in which trained members would accompany women to their doctors’ appointments to ask questions or reinforce the patient’s stance if the doctor questioned their decisions (ACE Program 1999, 136). This program reassured people with HIV that they were not alone, pushed

doctors to acknowledge and respect their rights, and exposed members to the lived realities of people with HIV.

ACE members also struggled constantly with restrictions enforced by the prison administration. In particular, their discussions of transmission were limited by the fact that sex and intravenous drug use—frequent methods of HIV transmission—are officially prohibited by the New York Department of Corrections. Consequently, the administration placed limits on ACE’s ability to discuss people’s behaviors and prevention methods. This was a major setback as “people must be able to discuss their actual sexual experiences openly, in order to change, if the spread of HIV/AIDS is to be prevented” (ACE Program 1999, 24). At one point, a social worker educating ACE members about HIV suggested that members advocate to remove the prison’s ban on condoms and dental dams. The superintendent considered this inappropriate, and immediately cancelled the training; following this, ACE was unofficially shut down for several months (ACE Program 1999, 54). Tensions between the superintendent and the women running the program continued as ACE grew and developed, reflecting the broader disposability of incarcerated people. The superintendent wanted the program to reduce stigma, but was resistant to ACE placing pressure on the prison to change policies and improve other conditions. As a prison official, she wanted to address the problems that impacted the functionality of the prison, but not the violent institutional logics that the PIC supports.

However, in spite of obstacles created by the prison and medical staff, ACE—with funding from The AIDS Institute—was able to set up an office in the prison and begin their programming. The office became a place of community, support, and

mourning. Over time, ACE developed memorial rituals, providing a sense of belonging and a kind of social life within the group.

Often, when a woman died, word spread throughout population, and the ACE office was the place where people gathered. We sat around the long table. Sometimes there was silence. Sometimes there was just the sound of crying. We have a tradition of telling stories about the person who had died. We try to remember the things that made us laugh as well. . . . Each time a woman from the prison died of [an] HIV-related illness, we made a quilt for her (ACE Program 1999, 105).

The quilts were a way to honor life, creating social belonging and life even in death. Through these rituals, the women of ACE formed a strong and lasting community. In the late 1990s, several of them came together to write a book about the program and their experiences. Even they expressed surprise about the bonds that had been forged through the program:

If you had used the word “community” about life in prison, we would have laughed. But in the end, we came together with a common goal and created a community, which gives us strength (ACE Program 1999, 20).

The impact of ACE stretched beyond the incarcerated population, and their programs also sought to educate guards. This was a crucial part of improving conditions as guards were in positions of power, and could adjust the way policies were enforced to ascribe value to the lives of people with HIV:

Many officers began to offer support through making an extra call to the hospital for a woman who didn’t feel well, or giving us a chance to spend some time supporting a woman, even if we were talking in an area where we weren’t supposed to be (ACE Program 1999, 59).

Inclusion in the ACE community and more humane treatment from guards had a real impact on how incarcerated women with HIV experienced prison and thought about themselves. Carmen Royster, one of the founding members of ACE, spoke about the way the program impacted her experience and self-esteem:

My involvement with ACE was essential for my acceptance and survival with AIDS in my life. ACE and AIDS have enhanced my life. I was able to turn around from self-hate into a positive outlook about myself and about life. Through ACE I have learned the meaning of social conscience and consciousness. I openly expose my status to the world in hope that I can show other women that *having AIDS doesn't make you any less of a person* (ACE Program 1999, 81, my emphasis added).

Carmen helped found ACE immediately after being diagnosed with HIV.

Twelve weeks after the ACE book release party, she died of an AIDS-related infection. She was on parole, and the book party was the last time she saw many of her friends from ACE. When she died, her community made a quilt in her honor. In the words of that community, “[ACE] didn’t stop people from dying, but it changed the dying process” (ACE Program 1999, 50). By valuing their lives and honoring their physical deaths, ACE fought against their social death. In death, ACE marked these women as belonging and being socially alive. By providing education, support, and a form of social life, this group of incarcerated people found ways to create solidarity and undermine institutional abandonment. ACE, in this beautiful display of social life and love, shows us the kind of activism that is needed to resist the ableist, white supremacist, and heteropatriarchal logics the PIC was founded on and reproduces.

### Conclusion

HIV quarantine in carceral spaces reflects the logics of disposability and technologies of containment that have characterized the American response to the HIV epidemic. From the logics of white supremacy, xenophobia, and heteronormativity that imagined and justified a national HIV quarantine, we can see

the ways technologies of quarantine protect the lives of some while abandoning others to spaces of slow death and isolation, such as the space of the prison. These logics animate policy-making inside the carceral system as well, justifying the segregation and further containment of the disposable in the name of the health and protection of an often ambiguous group. As will be discussed at length in the coming chapters, reform to eliminate HIV quarantine did not address these enduring logics; in fact, reform further masked carceral violence by perpetuating a narrative that the prison cares about the lives of people with HIV, while simultaneously continuing to mark them as disposable. Even though HIV quarantine was discontinued, technologies of slow death continue — as the next chapter shows.

Chapter Two  
Exclusion from Protection  
Prison Rape Elimination and the Naturalization of Sexual Punishment

“When ‘prison rape’ is understood as a coded reference to the fantasies of violent black sexuality, what is called for is the elimination of black bodies. Alternately, if ‘prison rape’ refers to the sexually violent structure of incarceration, what is called for is the elimination of the US prison regime.”

– Jessi Lee Jackson, “Sexual Necropolitics and Prison Rape Elimination”

“The truth is, the Administration believes rape and sexual assault is just a part of prison. It is a type of punishment. Not to punish you for your crime, but for being different—for being Gay or Trans or Deaf or just for being passive.”

—an incarcerated person in Texas writing for *Black & Pink*

As policies of HIV quarantine were eliminated, the spread of HIV in prison and its queer threat to a straight American future remained a public concern. Following several lawsuits by incarcerated people who claimed to have contracted the virus after being raped, Human Rights Watch released a report in 2001 about rape in men’s prisons (Kunzel 2008, 234). While the report brought attention to the very real prevalence of sexual violence, it cultivated a narrative of prison rape as racially motivated, expressing concern and presenting statistics that Black inmates were targeting white men for sexual violence (Human Rights Watch 2001).<sup>1</sup>

Fear of straight white men seroconverting after being raped in prison escalated, and in 2003, the Prison Rape Elimination Act (PREA) passed unanimously in both the United States Senate and House of Representatives (Kunzel 2008). PREA was born of an extremely rare bipartisan panic about the welfare of incarcerated white men; the law claimed to offer protection from rape by creating a zero tolerance policy

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<sup>1</sup> Accurate statistics about sexual violence are extremely difficult to gather due to low reporting rates. Certain social and political conditions make it safer to report being assaulted, which I will discuss in this chapter.

for sexual violence and a commission to study the dynamics of the problem.<sup>2</sup> But while conservatives and prison reformists alike celebrated the bill as a benchmark of progress, PREA has not been a tremendous success: 14 years later, rape in prison remains commonplace. At the same time, PREA has put into place policies that make life for marginalized incarcerated people even more violent.

In the sexually violent culture of carceral spaces, queer people and people of color are at particularly high risk. Take as an example the story of Ashley Diamond, a trans woman of color who experienced multiple incidents of violence while incarcerated, despite PREA's supposed zero-tolerance policy. Diamond was born and raised in Rome, GA. In her 20s and 30s, she was an aspiring singer/songwriter, working in Atlanta. In 2012, she was arrested for theft and sentenced to 8 years in state prison. During intake, Diamond tried to take steps to ensure her own safety:

I kept saying: "Hello? I'm trans? I'm a woman?" ... But to them I was gay. I was what they called a "sissy." So finally I was like: "O.K., I'm a sissy. Do you have a place where sissies can go and be O.K.?" (Sontag 2015)

Despite her requests, Diamond was sent to Macon State Prison, a high security facility for male violent offenders.<sup>3</sup> After less than a month of incarceration, she was "brutally sexually assaulted by six members of a gang, punched, stomped, and knocked unconscious" (Diamond v. Owens 2015, 16). Diamond reported her assault and expressed ongoing concerns about her safety. She was transferred to another

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<sup>2</sup> More specifically, the bill established national standards to prevent sexual violence in prisons. This included providing data and periodic trainings to corrections officers. It also created the National Prison Rape Elimination Committee which studies prison rape and publishes national statistics. For the full text of the act, visit <https://www.gpo.gov/fdsys/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>

<sup>3</sup> PREA instructs that Diamond should have been evaluated for safe housing following her request. However, protective custody for incarcerated trans people often means being placed in solitary confinement, which is psychologically damaging and can make people more vulnerable to abuse by guards. The ways in which promised protection can cause suffering will be explored at length in chapter three.

men's closed-security facility, Baldwin State Prison. There, Diamond reported being sexually assaulted twice and subjected to constant sexual harassment.

It is because of this kind of violence that many see policies like PREA as much needed reform. According to the Bureau of Justice Statistics, an estimated 4.0% of people incarcerated in state and federal prisons are sexual assaulted *each year*—and available statistics only cite reported assaults (BJS 2013). This data comes from 2011, years after PREA was passed. The law has not succeeded in reducing prison rape or offering a safe reporting process for survivors. In 2015, Diamond and the Southern Poverty Law Center sued several staff members of the Georgia Department of Corrections (GDC) for failing to protect her from sexual violence and denying her the hormone therapy she had been receiving for 17 years. Diamond was released from prison and the case was settled out of court in 2016 (Sontag 2015).

Diamond was assaulted seven times while she was incarcerated (Michaels 2015) and, unlike many survivors, braved the reporting process more than once. However, even when she reported, Diamond saw no change in her treatment. “The Georgia Department of Corrections says there’s a zero tolerance policy for sexual violence. I seriously doubt that,” Diamond said in a video she secretly filmed while in prison.<sup>4</sup> In fact, GDC officers explicitly told Diamond why her cases were not taken seriously; they said that she had “brought her assaults upon herself by being transgender” (Diamond v. Owens 2015, 17). From being termed a “sissy” to being blamed for soliciting her own assault, Diamond experienced violent transphobia from the moment she arrived in prison. Her gender identity was treated as invalid and a

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<sup>4</sup> Her video, “Ashley Diamond, a transgender prisoner in Georgia, speaks out” can be viewed on the SPLC YouTube account: [https://www.youtube.com/watch?v=ho\\_RRiuLjpY](https://www.youtube.com/watch?v=ho_RRiuLjpY).

form of “asking for it.” In addition, the GDC repeatedly “lost” her complaints and physical evidence, and failed to conduct an investigation (Diamond v. Owens 2015, 17).

It is not that Diamond was *legally* ineligible for protection; the text of PREA does not explicitly exclude trans women. Rather, her exclusion was social and historical: as a Black trans woman, Diamond was not treated as a person to whom PREA would apply. She was not recognized as a victim of violence because of her race and gender, and logics much older and more entrenched than the Prison Rape Elimination Act of 2003. Diamond’s treatment by the GDC is not uncommon, and shows that she—like many other trans women, particularly trans women of color—was not considered a subject of PREA and its protections. In question was not her inclusion in the text of the law, but her exclusion from citizenship. Crucially, her settlement does not address the conditions that made her vulnerable to assault: the logics of transphobia and racism that blame certain populations for the violence they experience.

In this chapter, I argue that although explicitly intended to eliminate prison rape and assault, PREA perpetuates violence against the most vulnerable incarcerated people. These “threatening” populations are made vulnerable to violence that they are then blamed for. Further, the law eliminates the possibility of consensual sexual activity through an over-surveillance of intimacy, and masks the sexual nature of incarceration under a narrative of reform. As we saw with the introduction of PREA, historically-rooted determinations of who is a victim and who is a perpetrator, who can accuse and be accused of sexual violence, reproduce a narrative of a racialized

threat in which Black men are sexual predators. This discourse marks two populations, (white) victims who must be protected and (Black) inherent perpetrators whose lives are disposable. Women of color and queer people are entirely excluded from this bifurcated narrative, and violence against them is not recognized at all. In the name of protecting some against others, this narrative focuses attention and efforts against sexual violence away from systemic, institutional violence and towards the surveillance and punishment of individuals who are constructed as inherent “threats.” Therefore, from its conception, PREA rested on and perpetuated the logics of white supremacy and heteropatriarchy that put queer and trans woman of color at increased risk of violence.

The first section of this chapter will ground my discussion of PREA in historical discourses surrounding sexual violence. Then I turn to the voices and stories of incarcerated queer people to demonstrate their exclusion from PREA’s protections. Finally, digging deeper into role of surveillance in reform, I analyze the state-sanctioned violence that policies like PREA bury under the guise of safety, focusing on strip searches and the denial of intimacy in prison.

### The Racialized Logic of Rape, Protection, and Surveillance

Ashley Diamond’s story reveals how women of color are and have historically been vulnerable to sexual violence and increased state surveillance. Historian Kali Nicole Gross, in an analysis of the relationship between Black women and the law, refers to this kind of selective protection and policing as an “exclusionary politics of protection” (Gross 2015, 25). Building on logics of white supremacy and

heteropatriarchy, “Black women were not entitled to the law’s protection, though they could not escape its punishment” (Gross 2015, 25). Thinking alongside Gross, I argue that the Prison Rape Elimination Act was born out of a panic for white masculinity, and was not designed to protect queer people or people of color.

Black women historically have not been protected from violence by police and courts, and have had to protect themselves from rape and domestic abuse because they could not count on legal support (Gross 2015). Since, as with Diamond, violence against Black women is not recognized as violence, this population is disproportionately incarcerated for self-defense (Gross 2015). Sixty-eight percent of incarcerated Black women have been victims of intimate partner violence, and Gross argues that “there can be little doubt that gender violence is a key factor in their disproportionate representation” in the incarcerated population (Gross 2015, 32).

This exclusionary protection and targeted surveillance was shaped by the American legal system, tracing back to colonial laws that did not recognize the sexual assault of Black women as a crime. In the early United States, rape of white women was prosecuted as a serious offense, while sexual exploitation of Native American women and enslaved women, as historian Estelle Freedman, among many others, notes, was allowed and culturally encouraged (2013). Sexual assault of women of color was filtered through racist and colonialist perceptions of morality, sexuality, and personhood; deeply racist stereotypes of women of color as hypersexual marked them as implicitly consenting, as “asking for it.”<sup>5</sup> Thinking alongside Orlando

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<sup>5</sup> There’s a huge literature on the hypersexualization of black women. For more about this topic in various time periods and contexts, see Crenshaw (1991), hooks (1992), Hartman (1997), and Wilderson (2017).

Patterson, this perception of “asking for it” can be seen as a consequence of social death, which he conceptualized as the lack of personhood, rights, and citizenship ascribed to enslaved people. At the time these laws were established, Black women in the United States were socially dead. Vulnerability to sexual exploitation and assault was only one consequence of their denial of legal and social personhood.

Building on Gross’s work and Cacho’s expansion of social death to modern populations, I argue that Black women remained disposable and excluded from protection as legal citizenship expanded. Just as PREA created a zero tolerance policy on paper, women of color were now legally eligible for protection from assault. However, blaming women of color for their own assault was the norm as “Black women’s bodies [were] the terrain upon which white men aimed to reinscribe old racial hierarchies” (Gross 2015, 27). Assaults of Black women by white men were considered to be consensual due to prevalent stereotypes about Black female sexuality (Gross 2015, 27). Black women were often subject to mob justice for trying to protect themselves; those who resisted assault were vulnerable to lynching (Gross 2015, 30). Despite the supposed equality of citizenship, the practice of the law and racist stereotypes continued to mark Black women as “asking for it” and as killable if they resisted assault. Legal citizenship did not confront hegemonic white supremacy that rendered people of color, especially Black and Native women, as disposable others who could be blamed for experiencing violence and supposedly perpetuating it in the attempt to defend themselves. Instead, these policies worked to uphold and protect white supremacy by trumpeting a narrative of progress.

While marking violence against women of color as impossible, the racialized narrative of rape targets men of color, particularly Black men, as a threat to the white population. This narrative is often traced back to coverage of sexual violence in Southern newspapers. Frequent stories of Black male perpetrators and chaste white victims led to an era of violence in which lynching of Black men in the name of protecting white women was both common and condoned (Freedman 2011). Freedman argues that this narrative portrayed rape of white women by Black men as a threat to the sexual entitlements of white men—a sexual threat both to their control of white women and to the reproduction of the white national body. Thus, sexual violence came to be seen as a threat to white supremacist patriarchy, the backbone of the nation.

As a result of this racialized construction of threat, societal fears about rape applied to only Black perpetrators; white men accused of rape were portrayed as the exception, if the stories circulated at all (Freedman 2011). Black men were declared a threat to white national futurity, and were made to die by a society that accepted and encouraged lynching. Social critics such as Ida B. Wells pointed out that many who were lynched had not been accused of sexual assault, but that framing lynching as “a defense of Southern female purity” meant there was little state or public opposition (Freedman 2011, 40).

The presumed guilt of men and the impossibility of sexual violence against women of color are both born of the exclusionary politics of protection. While quarantine offers protection to a certain population while leaving the others to die, the discourse surrounding rape sanctions violence against two different populations:

those who are portrayed as constituting a threat to the nation, and those who are excluded from the narrative altogether. People of color and queer people—who threaten straight white futurity—are made vulnerable to violence perpetrated by both individuals and the state in the name of protecting white virtue and reproducing the white nation.

The racialized dynamics of the 19th century South remain at work today. In 1989, a jogger was brutally raped in Central Park in New York City, a case that sparked outrage and racialized news coverage of the Black and Hispanic men accused; these men were later found to be innocent after serving up to 13 years in prison. Critical race and legal scholar Kimberlé Crenshaw traces this coverage back to the news media of the late 19th century; Donald Trump’s full page ad in several newspapers calling to “Bring Back the Death Penalty” parallels calls for lynching and mob justice (Crenshaw 1991, 1267). The public discourse of men of color as rapists marks them as killable in the name of protecting white supremacy.

The perceived impossibility of sexual violence against certain groups—including men of color who are viewed as inherent perpetrators—is also reproduced in contemporary discourse about rape. Dressing a certain way or having frequent sex is perceived to be “asking for it.” In cases of domestic violence, women, often women of color, are blamed for remaining with abusive partners, despite the high risks of leaving an abusive relationship. Sexual deviance and queerness also marks impossible victims of violence. For example, sex workers are construed as always-available by nature of their work, whether consent is given in an interaction or not. Following the exclusionary politics of protection, sex workers are also subject to intense

surveillance on the street and are targeted for their attempts to protect themselves; in four major U.S. cities, police use possession of multiple condoms as evidence of prostitution (Human Rights Watch 2012), making it dangerous for sex workers to carry safer sex supplies. These searches are frequently conducted based on profiling of trans women, who are at increased risk of violence from police and potential customers.<sup>6</sup> The most vulnerable people are disproportionately incarcerated because they are structurally and socially unable to be victims; their position as always-available marks them as impossible targets of violence and they are blamed for what they experience.

This racialized and gendered disposability intersects with homophobia and transphobia; queer people of color are often the most vulnerable to sexual violence and subject to the most state surveillance. For example, in 2006, seven young lesbian women of color were sexually harassed in Greenwich Village—a neighborhood of New York City known for its alleged tolerance of queerness. When the aggressor threw a lit cigarette at one of them and spat at another, the women fought in their own defense. All seven of them were arrested and charged with crimes including gang assault (Richie 2012, 12); their charges did not reflect the systemic, homophobic, and racist violence of their attack, or indeed that they had been attacked at all. While three women took a plea deal, four of them—Venice, Terrain, Patreese, and Renata—were

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<sup>6</sup> This kind of policing makes it more difficult for sex workers and others who are profiled to protect themselves from sexually transmitted infections and pregnancy because of the risk of carrying condoms. Lack of safer sex supplies also affects the power dynamics of sex workers' relationships with clients, and can put them at higher risk of assault. For more information on sex work and neoliberal policing, see Bernstein (2007).

convicted and sentenced, and became known in the anticarceral activist community as the “New Jersey 4” (Richie 2012, 12).

In comparison, two white men who stepped in to help the New Jersey 4 during the altercation were never interviewed or arrested by the police, despite being described as more aggressive by eyewitnesses. There is a strong contrast between the white men—who were ignored by the state—and the queer women of color, who were under intense surveillance, not seen as victims of violence, and therefore could not have acted in self defense. Because of their race, gender, and sexuality, the New Jersey 4 were more vulnerable to sexual violence than the white men and were subjected to more state surveillance that ended in their containment within the prison.

In 1991, Crenshaw argued that this perceived impossibility of victimhood stemmed from the invisibility of violence against women of color in the public sphere. Crenshaw argues that this was poignant in the Central Park jogger case; 28 other rape cases—many against women of color—were reported in New York City that week, but none rose to national significance or sparked calls for increased protection and safety (Crenshaw 1991, 1268). However, abolitionist activist Reina Gossett has argued that increased visibility following the #SayHerName campaign—which brings attention to images and videos of police violence against women of color—has not decreased violence. Instead, “visibility uses the lens of respectability to determine who, even in the most vulnerable communities, should be seen and heard,” perpetuating the marginalization of those who are most vulnerable (Gossett 2015). It is not so much an issue of visibility but of possibility; the state is structured

to protect white people and white nationality, and so does not recognize the possibility of violence against people of color.

In addition to playing a role in who is incarcerated, the exclusionary politics of protection function within the prison itself and can be seen in the politics surrounding PREA. Legal scholar Brenda Smith suggests that three conditions paved the way for the bill's passage: The Human Rights Watch report, an increase in white male prisoners, and conservative concerns about the consequences of rape while in custody (Smith 2008, 10). Human Rights Watch released several reports in the late 1990s about sexual violence committed by guards in women's prisons, all of which failed to produce legislative action (Smith 2008, 10). It was only when the safety, and indeed the sexuality, of incarcerated white men was brought into question that Congress unanimously supported reform. Congressional testimony explicitly discussed fears that white men may be vulnerable to sexual violence committed by men of color (Smith 2008, 10). Conservative concerns about the "consequences" of rape in custody alluded to a threat to the stability of nuclear family and the ability of white men to be patriarchs if they had been victims of rape. The fear that these white men could contract HIV posed a further threat to future of the family. These concerns tie PREA to rape as a threat to patriarchy and to the white national future. Although the final bill did include provisions to protect women from abuse by officials, the context of its passage reveals that PREA was born of a panic for white masculinity.

As such, the law was not designed to disrupt the exclusionary politics of protection, or to include the populations who are most vulnerable to assault in prisons: women, queer people, trans people, and people of color. In the following

section, I examine how the logics of white supremacy and heteropatriarchy are perpetuated by PREA and how they impact those who are not recognized as victims, either because they are painted as perpetrators or told they brought the attack upon themselves.

### Zero-Tolerance is “Just Words on Paper”

Bringing history to bear on Ashley Diamond’s story, we see that she was blamed for her own assault because her race and gender marked her as an impossible victim of sexual violence. The Prison Rape Elimination Act was not meant to protect her; it was meant to “expand protection to some incarcerated bodies at the expense of increased sexual-racial terror directed at other prisoners” (Jackson 2013, 203). Trans women are among the most vulnerable to sexual violence, particularly in prison, but are excluded from protection because their gender identity is read as “asking for it.”

Since this reform was enacted to protect white masculinity and supremacy, many incarcerated trans and cis women, queer men, and men of color experience treatment similar to Diamond’s, regardless of zero-tolerance policies. Roderick Johnson, a Black gay man who was incarcerated in the early 2000s, repeatedly reported brutal rape, but none of his cases were investigated (Mogul et al. 2011, 92). When he filed Life Endangerment Claims with the Unit Classification Committee, Johnson was told that there was “insufficient evidence” to investigate and was verbally harassed with homophobic slurs (Mogul et al. 2011, 92).

Johnson and the ACLU sued the Texas Department of Criminal Justice over his treatment. When the case was decided in 2005—after the passage of PREA—the

jury found the prison staff not guilty of negligence (Rigby 2006). The DCJ staff and the jury did not recognize Johnson's assault as such; even when he used the legal reporting process and filed suit, Johnson was unrecognizable as a victim of sexual violence.<sup>7</sup> Similarly, Carl Shepard, a gay man incarcerated in Mississippi, was explicitly told that he was considered to be "asking for it": "The major said that I was gay, the sex must have been consensual. He said I got what I deserved" (Mogul et al. 2011, 102). The PIC blamed these men for their own assault, and framed the violence they experienced as impossible. Because of its basis in these hegemonic logics, reform does not translate into change for incarcerated queer people and they remain if anything *more* vulnerable to sexual assault by other inmates. Thus, my argument here is not for further reform that explicitly includes these populations in protective policies; their exclusion does not stem from the letter of the law, but from its practice.

With the increased surveillance and punishment established under PREA, the most vulnerable populations are often targeted for self-defense. Johnson reported one incident in which he did not physically resist assault and the violence was discovered by prison staff. He was placed in solitary confinement for 15 days for violating the prison's ban on sexual activity (Mogul et al. 2011, 93), demonstrating that not only was he an impossible victim, but his vulnerability to violence by others made him more vulnerable to institutional violence as well. Much like the New Jersey 4, who were blamed for their own attack and incarcerated for self-defense, Johnson was

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<sup>7</sup> In the analysis of these lawsuits, I am not calling for increased prosecution, which would legitimate and expand the PIC. Instead, I analyze lawsuits to show that even when incarcerated queer people do report and attempt to use legal recourse, white supremacist and heteropatriarchal logics reproduce them as impossible victims. The issue is not that the officers in Johnson's case were found not guilty, but that Johnson and other queer people are viewed as deserving of violence because of their queerness.

blamed and punished for being a victim of assault. This is tragically common. Paula Smith, a transgender woman incarcerated in the Sumner County Jail in Tennessee, was assaulted by her cellmate in August 2015 (Abeni 2015). Correctional officers interrupted the assault, and Smith immediately told them that she had not given consent. However, a subsequent investigation, the details of which were not released, determined that this was untrue, and Smith was charged with filing a false report (Abeni 2015). To add insult to injury, a local newspaper article about the assault misgendered Smith (Alund 2015) and she continued to be held in a men's facility (Abeni 2015).

Given the highly gendered environment in prisons, homophobic logics impact people's experiences whether they identify as queer or not. For example, a John Doe in Michigan, who identified as a heterosexual Black man, experienced extreme sexual violence while incarcerated. Upon arrival in prison, Doe received letters with sexual propositions, including that he "need[ed] a white man to show you how to act.... When the opportunity comes I want to sneak in your house and hit that" (Chammah 2015). That letter also referred to Doe by a racial slur, and several white prisoners offered Doe their own form of protection in exchange for sexual acts (Chammah 2015). As a Black man threatened by white men, Doe's situation is a racial reversal of the narrative of prison rape that led to the passage of PREA, and so perhaps it is not surprising that the harassment he faced was rendered impossible. In fact, Doe was assumed by the prison staff to be gay (Chammah 2015). When he could not be read as an inherent perpetrator, Doe was read as queer, and his assault was read as consensual because queer people are always "asking for it."

PREA and the discourse of prison rape build on longer narratives and broader logics of queer and Black people as not entitled to state protection because queer and trans people are always available and Black people are always perpetrators and never victims; queer and trans Black people are caught between both exclusions.

Widespread failure to protect queer people and people of color—in many cases punishing them for surviving assault—may violate the text of PREA, but, as Diamond said, the law is “just words on paper” (Sontag 2015). The logics and history that PREA was built upon designate straight white masculinity as the object of protection. The continued abuse of incarcerated queer people and people of color 14 years after a major reform reveal that they were not a part of the population that the legislation was intended to protect; indeed, the act itself reinforces the exclusionary logic that mobilized it. By erasing queer and Black vulnerability, the narrative of prison rape subjects these populations to further violence at the hands of the state, masking this violence—ironically, horribly—with claims of safety and protection.

### Strip Searching and the Sexual Violence of the Carceral State

Reform measures like PREA bury state-sanctioned violence under the guise of safety. One example of the carceral sexual violence justified by reformist narratives is the strip search, a common procedure in most contemporary prisons and jails. It involves incarcerated people removing their clothes and performing a number of movements so that guards can observe all parts of their bodies. This ritualized procedure is frequent and not optional; strip searching, as abolitionists and activists have argued, is a coercive form of sexual violence that amounts to state rape. The

continual rape is masked by claims that strip searching protects the prison from contraband. Examining various lawsuits and reforms to the strip search reveals how these efforts direct attention away from the inherent violence of the procedure and the institutions where it is performed.

For example, in May 2010, Krystal Voss filed a step one grievance with the captain of the Denver Women’s Correctional Facility. Voss, who had been incarcerated for five years, met with the captain on behalf of her friends to discuss a newly instituted strip-search policy in which inmates were required to spread their labia. “This new procedure disturbed me to the very core,” Voss wrote in an article for *Women in Prison*, a website dedicated to resistance. “It felt like sexual harassment” (Voss n.d.). After putting Voss through a vetting process that Voss described as “demeaning,” the captain insisted that the procedure was not invasive, even as Voss raised concerns about sanitation (Voss n.d.). While in some states people with HIV are forced to use disposable silverware despite the lack of any health risk, Voss’s concerns were completely ignored. This inconsistency reveals that it is not truly health at stake in these policies, but rather the marking and targeting of certain populations.

It was September before an ACLU lawsuit banned the so-called “labia lift” from the strip search procedure. While the change made a significant difference to Voss and others in DOC custody, many of whom found the violence triggering<sup>8</sup> (Voss n.d.), the reform left the essence of the strip search intact. Banning the labia lift was

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<sup>8</sup> Incarcerated women are disproportionately survivors of sexual abuse and assault. According to the Bureau of Justice Statistics, 57.2% of incarcerated women were victims of abuse before being incarcerated.

offered a solution to the sexually violent nature of strip searching—as if a ritualized procedure in which incarcerated people are searched both inside and out in front of a crowd, in which they are denied any semblance of privacy and forced to put their bodies on display, could be made non-violent and humane.

While certain provisions of PREA have helped some incarcerated people survive in prison, I argue that the law, and indeed any reform, cannot produce a humane, non-violent carceral space. For example, PREA in theory bans cross-gender strip searches, which incarcerated trans people have described as even more violent (Lydon 2016, 65). However, this policy is not always practiced. In 2013, *Black & Pink* organized a letter-writing campaign to the warden of Kern Valley State Prison in California on behalf of Jenni Gann, a trans woman who had experienced repeated sexual harassment during cross-gender searches. According to a sample letter, guards had been “ridiculing her anatomy, threatening her, and exposing her to male inmates” (*Black & Pink* May 2013, 2). The members of *Black & Pink* requested that the warden at least have the searches conducted by female officers, but asked that they “refrain from strip searches unless absolutely necessary” (*Black & Pink* May 2013, 2). While asking that PREA’s regulations be adhered to, *Black & Pink* members acknowledged that this reform does not offer a solution. PREA, in declaring that the gender of the officers conducting the search was the source of violence, masks the sexually violent nature of strip searching itself and legitimizes the continuation of the reformed procedure.

The strip search is a poignant example of the institutionalized sexual violence and surveillance of the prison-industrial complex, violence that the state sanctions in

the name of safety. Strip searches have been the subject of numerous lawsuits, from Voss and the ACLU in Colorado, to women in the Cook County Jail (Marlan n.d.), to an ongoing suit against the New York Department of Corrections by visitors who have been strip searched (Rakia 2017). These cases argue that strip searches are being performed incorrectly and illegally; by arguing that the search procedure can be “fixed”—as PREA argues that sexual violence in prison can be “fixed”—these cases relocate the source of violence from the institution to outdated policies and individual actions. These narratives and lawsuits push us to imagine that if small changes could be made to the procedures, the problem would be solved. This diverts attention from the fact that strip searching is a sexually violent technology grounded in racism and patriarchy, yet these logics are obscured when we imagine we can “reform” what is an inherently violent—and violating—institution.

Incarcerated people are vulnerable to this state-sanctioned sexual violence constantly, both on a routine basis and seemingly at random. Barbara Parsons, incarcerated in Connecticut on charges of homicide of her abusive husband—harkening back to the under-protection and over-surveillance that Gross deems the exclusionary politics of protection—describes the violence to which she was subjected when she was accused of having marijuana in her cell. Her ordeal began with a routine strip search, which she describes as “the humiliating routine of exposing our every nook and cavity.... By the time my clothes are handed back, I’m a piece of meat” (Parsons 2007, 230, 227). During this daily procedure, known as a shakedown, a tea bag was found in Parsons’s cell. This constituted enough evidence

for Parsons and her cellmate, Jackie, to be forced to spend several days in administrative segregation and take repeated drug tests.

There's nothing incriminating in our cell, so this must just be part of the intimidation. We take turns peeing into cups while a female staff member watches, lest something drop from our vaginal cavities into the toilet and get flushed away. I'm embarrassed by this procedure, so it's difficult for me to relax and pee, and the officer's impatience doesn't help any (Parsons 2007, 227).

The absurdity of the evidence against Parsons and Jackie did not prevent them from “being handcuffed, grabbed by [their] upper arms, and forced to walk backwards” to their punitive cells, a procedure that policy mandates must be videotaped because it is acknowledged as force (Parsons 2007, 228). In fact, the videotaping of the backwards walk is the same kind of recuperative reform as PREA: state-sanctioned force is regulated by additional surveillance, implying that any violence stems from abuse of individual officers, and not from the procedure itself. These kinds of regulations direct attention away from the practice itself as the actual source of violence, reinforcing its legitimacy.

Thinking alongside Foucault, we can see the strip search as a technology of both surveillance and discipline. It is a series of movements that incarcerated people are forced to perform on a regular basis, a Foucauldian examination in which “instead of imposing its mark on its subjects, holds them in a mechanism of objectification” (Foucault 1991, 187). It is a technology of domination that renders its subjects entirely visible. Though a legally conducted strip search does not involve physical force, it both shows and reproduces the power of the PIC, as well as framing those who are most vulnerable to state violence as the greatest threat to others and to the order of the prison. Parsons and Jackie, and all incarcerated people, are denied any

kind of privacy. The strip search is proof that their bodies can be searched both inside and out at any time, a form of state rape that is sanctioned by a narrative of protection.

Strip searching is only one prison procedure in which constant surveillance violates bodily privacy. Much like reforming the strip search cannot take away its sexually violent and invasive nature, removing it from the prison routine would not make incarceration a non-sexual punishment. The confinement of movement and constant surveillance mean that bodies in prison are bodies on display, both to guards and to other incarcerated people. Incarceration is, by nature, a lack of bodily autonomy, and an embodied punishment. As abolitionists have shown, incarceration is inherently a sexual punishment—yet the focus on Black on white rape and not institutional violence sanctions further carceral violence in the name of protections and distracts from the central issue.

In this last section, I show how PREA has led to increased surveillance and perpetrated a lack of bodily autonomy and privacy. I bring in the voices of those who have suffered sexual violence at the hands of the state, as well as those who have been punished for consensual sexual behavior while incarcerated, to show that this lack of bodily autonomy is foundational to imprisonment. There can be no vision of incarceration that is not a sexual punishment; the sexual violence of the prison is committed not only by incarcerated people against each other, but by the state and the prison system.

## Surveillance, Bodily Autonomy and the Right to Intimacy

The exclusionary politics of protection that underlie PREA do more than just fail to protect queer populations; they justify denying incarcerated people bodily autonomy in the name of their own protection. PREA's proposed solution to prison rape is both constant surveillance in the prison and rules forbidding consensual sex. This enforces a sexual punishment for incarcerated people by denying them the right to intimacy and privacy. For example, Sheena King, an incarcerated lesbian, described the pain of these restrictions in a published letter to her lover:

Why did we have to make love in closets, bathroom stalls, in secret rooms, in showers and over toilets, with quick touches in corners? If we lay in my cell or yours, we needed someone to watch for us while we quickly but passionately quenched each other's fire. No pillow talk, no extensive cuddles or falling asleep in each other's arms for a night, to awaken to your beauty by sunlight. Why? Why was our relationship so stifled? (King 2010, 129).

In the name of protecting incarcerated people from sexual assault, the PIC bans all consensual sexual behavior. To deny incarcerated people privacy and to forbid intimacy is certainly both a bodily and a sexual punishment. Had King and her lover been caught, they would have been forcibly separated.

Why did we pretend our relationship didn't exist so we could live together—not in the same room, just in the same building?... How was our private life a public nuisance when we kept our personal life to ourselves? Why was our love and joy disrespected though we weren't disrespectful? (King 2010, 129).

PREA's "protections" offer no safety and come with added surveillance that makes King and others more vulnerable to punishment. The law used the potential for sexual violence to deny King and her partner the bodily autonomy and freedom of association to be together and be intimate.

This disrespect for and denial of intimacy in prisons predates the policy panic about sexual assault. The Prison Rape Elimination Act is only the latest in a series of policies that police sexuality and sex in prison in the name of protecting a certain population and the heteropatriarchal social order. Over time, various narratives have been used to justify the loss of bodily autonomy that inevitably results from being denied freedom of movement and association. Conceptions of the men’s prison as a space of “situational homosexuality” led to bans on intimacy to prevent incarcerated people from becoming gay, while women’s prisons were conceptualized as spaces of domesticity (Kunzel 2008). In the 1960s, concerns about lesbianism in women’s prisons led to bans on any physical contact: “At California’s Terminal Island Prison, one prisoner reported, ‘just touching another woman could get you a D.R. (Disciplinary Report)’” (Kunzel 2008, 115). PREA’s zero-tolerance policy has perpetuated these circumstances in contemporary prisons. At York Correctional Institution, a women’s prison in Connecticut, PREA training documents instruct that all “Staff, Volunteers, Interns and Professional Partners... shall treat any observation of sexual activity as potential sexual abuse.”<sup>9</sup>

In order to protect heteropatriarchy and white supremacy from the threat of queerness, the state enforces disciplinary and surveillance techniques that forbid intimacy and love in prison. At a deeper level, these policies protect the image of the prison as a necessary and just institution. These forms of resistance—to have sex, love, and solidarity in a place of social death, as the women of ACE did—are quashed not as a side effect of protecting individuals, but as a consequence of protecting

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<sup>9</sup> This information comes from an unpublished document entitled “V.I.P. Prison Rape Elimination Act Training,” distributed to volunteer faculty by the Connecticut Department of Corrections.

heteropatriarchy. It may seem strange to talk about the prison as a place of love, but that impression is a result of how ingrained these logics are in society; they paint the prison as a place where the source of violence is those who are housed there and not the institution itself. This narrative masks the ways in which the prison incites violence against those who must survive in it. Denying the intimacy that King craves offers no real safety to her or anyone else, but is an aspect of carceral punishment for her and her partner that, billed as protection, covers up the inherent sexual nature of incarceration. In taking steps to purportedly protect incarcerated people, the prison-industrial complex and carceral state are constructed as non-violent in nature. These policies reproduce the illusion that a truly humane prison can be achieved through further punishment under the guise of reform.

### Conclusion

The Prison Rape Elimination Act, like many prison reforms, offers surveillance as a solution to a safety issue. PREA sanctions increased violence against queer populations while offering them no protection. In doing so, this piece of legislation builds on a history of focusing on individual actions over systemic violence so as to disguise the continued operation of white supremacy and heteropatriarchy. Prisons are only one space in which this logic operates; reformist language and the exclusionary politics of protection intersect in other institutions of the prison-industrial complex, in public schools, and in police surveillance of communities of color, low-income communities, queer communities, and so many

others. Transgender bathroom laws,<sup>10</sup> currently at the forefront of public debate, can be read as an example of this phenomenon. Children are constructed as innocent victims and pedophiles as inherent perpetrators, while systemic violence against trans people is marked as impossible and buried beneath a narrative of protecting the purity of the future. As with HIV quarantine and PREA, this logic reverses victim and perpetrator, so that those who are most vulnerable are marked as the greatest threat, and the role of the state in creating, endorsing, and perpetuating violence continues to be masked.

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<sup>10</sup> These laws, such as North Carolina's House Bill 2, require trans people to use the public restrooms that correspond with the sex on their birth certificate, which frequently is different than their gender identity. In August 2016, a federal judge declared that the state could not enforce H.B. 2 due to concerns about violating Title IX of the Education Amendments of 1972 (Berman 2016). Several states have introduced bills like H.B. 2 since this time.

### Chapter Three Torturous Confinement Queer Vulnerability in Protective Custody

The racist and queer/trans-phobic technologies of quarantine and surveillance are the foundation of the prison-industrial complex. Quarantine reproduces certain populations as a threat to the social order, marking them as disposable and masking violence against them in the process. By isolating these populations, quarantine eugenically eliminates their perceived threat to futurity. Surveillance also uses white supremacist and heteropatriarchal logics to mark certain groups as a threat, resulting in exclusion from protection and increased institutional violence for those who are most vulnerable. Both technologies support and reproduce the dominant heteronormative white supremacist social order by marking and targeting queer people; they uphold the legitimacy of the prison and the state by covering the violence committed by the institution beneath a narrative of offering protection from individuals. Even and perhaps especially when protection is purportedly for those who constitute the threat, these technologies make disposable populations more vulnerable to state violence. These technologies are diffused throughout the PIC and broader culture, and are often intertwined. In this chapter, I use the frameworks of eugenics, quarantine, and surveillance that I have explored throughout the thesis to analyze how a policy specifically designed to offer protection to incarcerated queer people in reality creates further violence and suffering.

In response to the extreme and disproportionate violence incarcerated queer people experience in the general population, carceral spaces have begun to offer “protective custody” to those they perceive to be in danger of sexual assault or abuse,

particularly trans women incarcerated in men's prisons. This practice attempts to respond to the very real threat that trans women face, providing them protection from others through isolation. Typically, those in protective custody are housed in administrative segregation, an increased security level compared to the general population. While this does lower their risk of violence from other incarcerated people, protective custody places queer inmates in solitary confinement and leaves them isolated from social resources and relationships with the general population. This isolation is mentally devastating, and makes trans people more vulnerable to harassment and abuse by guards.

In this final chapter, I argue that although this reform purports to offer protection, its reality is torturous. The possibility of requesting protective custody, established under PREA, creates a choice for incarcerated trans people: they can remain in the general population at disproportionate risk of violence or request to be placed in complete isolation. These limited structural possibilities leave incarcerated trans people without any options that offer genuine safety. Additionally, protective custody is not always a status that is requested; many incarcerated trans people are placed in protective custody at the warden's discretion, regardless of whether they would rather be in the general population. Protective custody is rooted in white supremacist and heteronormative logics, and built on technologies of quarantine and surveillance. It is actively harmful to the very people it claims to protect. Building on a history of gender policing in the PIC and ideas of solitary confinement as a punishment for the "worst of the worst," I explore the violent nature of isolation as a form of protection. Ultimately, I argue that the realities of protective custody reveal

that creating safe spaces for trans people necessarily involves a more radical change than reforming carceral spaces to include segregated spaces of supposed safety.

In the first section, I offer a history of solitary confinement in American prisons, drawing on critical work about the racialized logic of who is placed in solitary. This account is supplemented by a history of gender policing in the prison, which has had similar overtones of moral and behavioral reform and punishment. In the second section, I recount the stories of three trans women whose confinement was widely covered in American media: Jane Doe, CeCe McDonald, and Chelsea Manning. Each of them was placed in solitary confinement under different circumstances, purportedly for their own protection. Building on their stories and their own descriptions of their experiences, I show that protective custody is a reform based in oppressive logics and is violent in reality. This final site of oppressive protection demonstrates that, as I have argued, policy reform does not address the violent logics of the PIC. As Katie Burgess, Executive Director of the Trans Youth Support Network, said, “the only way trans folks are going to be safe...is for the incarceration of people to end.”<sup>1</sup>

### Solitary Confinement, Gender Policing, and Targeted Control

According to Solitary Watch, somewhere between 80,000 and 100,000 people incarcerated in the United States are held in solitary confinement. The actual number is difficult to calculate due to a lack of available government statistics and the

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<sup>1</sup> Burgess appeared on *The Melissa Harris Perry Show* on January 19, 2014 in a segment called “No one can ‘take my identity away from me.’” The clip can be found at <http://www.msnbc.com/melissa-harris-perry/watch/how-the-system-treats-trans-people-121475139959>.

multiplicity of security levels that are equivalent to solitary. Anti-racist and human rights activists Bonnie Kerness and Jamie Bissonette Lewey argue that this variety of classifications is “largely a game of semantics because all of these settings encompass a specific set of environmental factors that, considered together, constitute psychological torture” (Kerness and Lewey 2014, 36). However, historically and currently, people of color and queer people have disproportionately been placed in solitary confinement in its various forms (Kerness and Lewey 2014).

Philosopher Lisa Guenther, in her book about the embodied experience of solitary, identifies three waves of solitary confinement in the history of U.S. prisons. The first—beginning in 1776 with the opening of the Walnut Street Jail in Philadelphia, PA—was the early stages of the penitentiary system. Jails and prisons adopted the practices of the “Pennsylvania system,” in which incarcerated people spent all but one hour a day isolated in their cells, working in complete silence (Guenther 2013, 13). During this time period, the unemployed were incarcerated in order to “mold them from the ‘idle and criminal’ poor into the ‘working’ poor through forced labor” (Kerness and Lewey 2014, 23). Confinement entailed almost complete sensory deprivation. Kerness and Lewey describe this in the story of Charles Williams, the first person incarcerated in the Eastern Penitentiary in Philadelphia:

His guards would have worn padded shoes so that the sound of their feet would not disturb the silence of the prison as they escorted him to his cell, where he would live for 2 years. His food would have been delivered through a slot in the door. He would have been given work to complete in his cell or in the walled individual exercise yard connected to his cell. On the rare occasion when he may have been removed from his cell, he would have been hooded. No one would have spoken to him unless it was necessary, and anything he uttered would not be responded to (Kerness and Lewey 2014, 23).

This isolation was supposed to give incarcerated people like Williams time to think and remake themselves so they could rejoin society. In this wave, solitary confinement claimed a moral reformist goal; intensive confinement was a way to create normative subjects through discipline and surveillance. Yet, while men's prisons attempted moral reform through solitary confinement, the first women's prisons were designed as bastions of domesticity. Starting in the 1870s, Quakers fought to "rehabilitate" incarcerated women, training inmates in cooking and cleaning, and teaching them to be good housewives (Davis 2003, 73).

The 1960s and '70s saw the second wave of solitary confinement, fueled by attempts at behavior modification to "rehabilitate criminals, to treat and recondition their antisocial behavior, and to turn them into productive members of society" (Guenther 2013, xvi). These programs targeted people of color, particularly those who were involved in political resistance movements such as the Black Panthers and the Red Power Movement, and were designed to destroy the "criminal personality" (Guenther 2013, 66; Camp 2016). Again, the solitary confinement was used to target those who posed a threat to white supremacy—in this wave along racial instead of class lines—using the psychological trauma of being completely isolated and constantly observed to attempt to create disciplined subjects.

Drawing on these previous practices of solitary confinement, protective custody is revealed to be a continuation of these logics of white supremacy and heteropatriarchy, even as it claims to counteract them. The practice of contemporary protective custody was introduced in the 1970s. Originally, it was intended to offer protection to homosexual prisoners in men's prisons, who faced disproportionate

violence and sexual assault in the general population. Although the practice claimed to protect incarcerated queer people, the men were often held in solitary confinement and “experience[d] their recourse of last resort...as compounding rather than relieving the conditions of their incarceration” (Kunzel 2008, 15). While it did offer safety from other inmates, this practice was effectively a form of sexual quarantine, separating those who were perceived as effeminate from the general population in order to contain their threat to masculine norms and punish their deviance. In some cases, protective custody was explicitly used to attempt to shape heteronormative subjects: for instance, one incarcerated person in California was denied parole because they “expressed [their] intention of having sexual reassignment surgery and hormonal treatment upon release.” Prison officials said that parole would not be reconsidered “until [they] change [their] sexual identity” (Kunzel 2008, 16). In this case, solitary confinement was seen as “for their own good”—a way of protecting this person from themselves and their own identity. Protective custody then purports to offer “protection” from three threats: protection for incarcerated queer people from rape in the general population and from their own queerness, as well protection for the normative imprisoned population from a queer threat.

The introduction of protective custody was followed by the third wave of solitary confinement beginning in the 1980s and continuing to the present day. Advocated by prison administrators who want greater control of the population, this wave again targets those who are perceived as threatening: people of color, queer people, gang members. This wave of solitary confinement claims to protect against a threat to other prisoners; indeed, as was discussed in chapter one, people with HIV

were sometimes placed in solitary confinement while waiting for a bed in quarantine. People incarcerated in solitary now are portrayed publicly as “the worst of the worst”—those who are so violent and pose such a threat to society that they must be entirely isolated and contained (Guenther 2013, 162). However, the people who spend the longest time in solitary confinement are often there *not* for violent crimes but for breaking prison rules, which “blur[s] the notions of the ‘disruptive prisoner’ and the ‘dangerous individual’ and the prison itself emerges as a separate entity which requires protection” (Shalev 2009, 54). In the name of protecting the routine functioning of the prison, these people are held in small cells for 22-23.5 hours a day. The lights are on at all times, there is constant noise, and they are almost entirely isolated from any human contact (Kerness and Lewey 2014, 28). They are allowed extremely limited communication with a lawyer and immediate family, although visits are often required to be non-contact.

The isolation of solitary confinement has repeatedly been shown to have extreme psychological effects. Psychiatrist Stuart Grassian coined the term “SHU [secure housing unit] syndrome” to describe the unique and consistent symptoms that people incarcerated in solitary experience. SHU syndrome often includes hypersensitivity; hallucinations; panic attacks; difficulty thinking, concentrating, and remembering; intrusive obsessional thoughts; and paranoia (Grassian 2006, 335). In her book about the experience of solitary confinement, anthropologist Lorna Rhodes says that the “sense of exposure and shame” associated with solitary “activate[s] a sense of threat to the coherence of the self” (Rhodes 2004, 56). Guenther also argues that contemporary solitary confinement interrupts a person’s most basic sense of

identity; it removes their sense of personhood by denying relationality (Guenther 2013, 20). The conditions of solitary confinement have been described as torture by activists and organizations such as the ACLU.

The establishment and continuation of protective custody mask carceral violence beneath a reformist narrative. By housing trans people in solitary confinement, the prison situates itself as protecting them from the violence of other inmates. Meanwhile, the actual aggressor of violence shifts from incarcerated people to the prison itself, its walls, and its solitude. Yet this policy produces a narrative that relocates the source of violence in the opposite direction, reinforcing a focus on inter-inmate violence instead of the torture of isolation. Whether they remain in the general population or are placed in solitary confinement, the institution of the prison marks trans people as disposable and facilitates their slow death in their name of their own protection.

PREA and violent physical and sexual hierarchies demonstrate that the prison remains a highly gendered space and “produces systems of gender normativity and heteropatriarchy” through policing of gendered behavior (Rosenberg and Oswin 2015, 1271). This heteronormative gendering makes the prison an inherently unsafe space for queer people, particularly for trans women incarcerated in men’s prisons. However, given the realities of protective custody, how do we understand requests for this security status, such as Ashley Diamond’s request for protective housing in the last chapter? In forthcoming work about the school-to-prison pipeline, Kristie Dotson and Kimberlé Crenshaw argue that a lack of structural options—in this case choosing between violence in the general population or total isolation—create something of a

temporal trap (forthcoming). With no other structural possibilities, incarcerated trans people are stuck in the now, in the choice between two extremes, two violent situations, and without any options that offer genuine safety (Guenther, personal communication).

In the remainder of this chapter, I discuss the stories of three trans women who were held in solitary confinement, purportedly for their own protection. I examine the ways in which their perceived threats to masculinity, white supremacy, the purity of children, and the U.S. military intersected to create the unique circumstances in which these three women were tortured in U.S. prisons, by the U.S. government. Their experiences reveal a logic in which protection serves as a cover and as a justification, for carceral violence and abuse. The stories that follow are harrowing and horrifying; they speak to the urgent necessity of abolishing the institutions and logics that uphold and justify this kind of violence.

### Torture in Protective Custody

#### ***Jane Doe***

On April 8, 2014, Jane Doe—later identified as Angel R.—was placed in the mental health unit of York Correctional Institution in Niantic, CT. At the time, Doe was 16 years old and in the custody of the Connecticut Department of Children and Families (DCF). She had not been convicted of a crime and did not have pending charges; a judge had ordered her transfer to York based on an obscure state law that the DCF may transfer children to the Department of Corrections if they are deemed too dangerous to remain in DCF custody (Bogado 2014). According to *The Hartford*

*Courant*, the law has been used only twice in the 40 years since it was passed (Kovner 2015).

Doe was a female transgender child of color who had been in the custody of the DCF since she was five years old. Under its supervision, Doe suffered sexual and physical abuse while living with family members, and was harassed and abused by staff members at DCF facilities. She started using drugs and engaging in transactional sex while living with a friend before being transferred back to a boys' juvenile detention center (*Jane Doe v. CT DOC*). In her court affidavit challenging her incarceration at York, Doe expressed that she was trying to deal with trauma from her childhood:

Even now that I'm sober and out of that situation, I still can't see anything else in my future besides this. People constantly tell me I can change that but I just can't see myself doing anything else. I have no family. I have no friends.... I need to deal with the trauma I've experienced in my life. This prison cannot do that for me (*Jane Doe v. CT DOC*).

Doe was held at York until late June, isolated from other incarcerated people because she was a minor. She was in her cell 22-23 hours each day and had no contact with people her own age, though the DCF denied that she was being held in solitary confinement and said she would be able to participate in group activities (Beach 2014). Her mental health deteriorated due to her isolation and "hear[ing] the other adult inmates screaming, banging, and crying" (*Jane Doe v. CT DOC*). The DCF said that her incarceration York was warranted because she was "uniquely dangerous, in that no other youth at the Connecticut Juvenile Training School has exhibited such a long-established pattern of assaults" (Beach 2014). Lawyers and

activists charged that her treatment was unconstitutional, and Doe herself petitioned to Governor Dan Malloy to be transferred:

I am suffering in here. I'm having trouble sleeping and I'm not eating much. I cry every night. I can't be myself in this place. *I feel forgotten and thrown away* (Jane Doe v. CT DOC, my emphasis added).

When Doe was finally transferred out of York, she was moved to a psychiatric center for girls. In her affidavit, she stated that she was on hormone treatment and that the DCF had always treated her as a girl (Jane Doe v. CT DOC). However, following an alleged violent incident in early July, she was suddenly relocated to a detention center for juvenile boys (Nalpathanchil 2014). The DCF claimed that she was moved “because there is no suitable place on the Pueblo Unit [facility for girls] for Jane Doe that can ensure the safety of youth and staff” (Nalpathanchil 2014). At the Connecticut Juvenile Training School, she was again isolated in a single room to be separate from the boys in the facility (Nalpathanchil 2014). Although she was deemed too dangerous to be around other girls, the only structural possibility for the DCF to protect her from violence by others in a boys’ facility was to isolate her completely.

Doe’s protective custody status while at York was complicated by the fact that she was minor who had not even been charged with a crime. She was incarcerated and isolated supposedly for being uncontrollably violent, playing into the widespread idea that trans women are inherently criminal, dangerous, and threatening to the heteronormative population. This also perpetuates the narrative that those in solitary confinement are deserving of extreme isolation because they are “the worst of the worst.” Although she was incarcerated in a women’s prison, her time in both men’s and women’s facilities speaks to a technology of gender policing and heteronormative

assumptions about who is capable of violence. In particular, transferring her to the Connecticut Juvenile Training School, a boys' facility, after an incident of alleged violence reveals a heteropatriarchal logic in which violent action marked her as male.

At York, despite the clear impacts on her mental health, correctional officers prioritized "protecting" her from the adult inmates by keeping her in solitary confinement. Her status as a minor was seen to make her vulnerable to abuse or influence by other incarcerated people, but the torture and feeling of abandonment of solitary confinement were masked in name of her own protection. Although its violence was committed by walls instead of other humans, protective custody restricted her from connecting with others, recovering from trauma, and reaffirming her gender identity and social personhood.

### ***CeCe McDonald***

While state justifications for Doe's confinement were focused on her age in relation to others incarcerated at York, CeCe McDonald was placed in solitary confinement explicitly because she is trans. McDonald, a vocal activist for prison abolition, spoke to the transphobia she experienced in prison:

Of course [the prison system and guards are] going to discriminate against me more because I am trans.... They create policies that they say are there to protect you when they're really there to kind of exclude you from everyone else and kind of put you into your own little box (McDonald, interviewed in Brekke 2016).

Around midnight on June 5, 2011, McDonald and four of her friends were making their way to a grocery store in Minneapolis, MN. McDonald, a Black trans woman, had learned that nighttime was the best time to avoid harassment on outings

like this, and she was thinking about her shopping list for the next day. As she and her friends passed the Schooner Tavern, a group of white people yelled out to them, making racist, homophobic, and transphobic comments about her group. McDonald and her friends tried to keep walking, but a fight broke out after one of their assailants threw a glass at McDonald's face, creating a cut that needed 12 stitches. As she tried to leave the scuffle, a man named Dean Schmitz followed her and continued to harass her. McDonald turned around, reaching into her bag for something to protect herself with. A fashion student, McDonald found a pair of scissors that, in the ensuing altercation, became embedded in Schmitz's chest, puncturing his heart (Pasulka, 2012).

But the trauma of the night far from over; McDonald was the only one of her friends who was arrested. She described the rest of her experience that night in a blog post the following year:

Instead of taking me directly to the ambulance, they made me sit in the back of a squad car in handcuffs while bleeding badly and in very bad pain. When I was finally transported to the ambulance, I was immediately bombarded with questions, even before I could get the medical attention I needed. And when I got to the hospital it didn't go any better. I was told to take off all my clothes, after that I was shackled to a hospital bed, and poorly examined hence the large deformity that was on my left cheek from a saliva gland being cut. From there I [stayed] in an interrogation room for over 5+ hours (McDonald 2012).

During the interrogation, McDonald was asked how angry she was during the incident, marking her as the aggressor and not the victim of violence (Gares 2016).

When she left the interrogation room, McDonald was placed in solitary confinement at the Hennepin County men's jail, which the staff had determined was necessary for her own protection (Erdely 2014). This was before she had been charged, tried, or convicted. Although she had been incarcerated for short periods of time before, the

complete isolation of solitary was shocking and emotionally distressing for McDonald: “There wasn’t a moment when I wasn’t in pain mentally and spiritually, and even beating myself up for defending myself.... There’s no room for sanity” (Erdely 2014). Her former caseworker, Abby Beasley, was shocked at how shaken and afraid McDonald was during the first time Beasley was able to visit her in jail (Erdely 2014). At one point, McDonald considered killing herself to escape the isolation (Gares 2016).

McDonald was in solitary confinement for two months while on bail before she was moved to a mental health unit. Almost a year later, McDonald took a plea deal for second degree murder after the prosecution refused to acknowledge that she acted in self-defense. Following the exclusionary politics of protection discussed in chapter two, McDonald was not a possible victim of violence; one prosecutor asserted that “CeCe had other alternatives than stabbing him with a dangerous weapon in the chest” (Gares 2016). The trial focused on her actions, and not the transphobic, racist attack she had survived. When she was taken to prison, McDonald was again immediately put in solitary confinement.

They claimed it was “for my own protection” and that they wanted to be sure I was safe, when in reality, solitary confinement only fucks with your mind. It’s scientifically proven that people who go into solitary confinement usually don’t come out the same. It traumatizes you in ways that you sometimes can’t come back from (McDonald, interviewed in Lockett 2016).

McDonald was in her cell 23 hours a day, with only one free hour to shower, call her family, or exercise. The lights were constantly on in her solitary unit, and she was unable to sleep properly for the three months she was confined there (Lockett 2016). The lack of sleep and windows and the constant light led McDonald to feel like she

was “being further oppressed by a system that’s already oppressing you” (McDonald, interviewed in Lockett 2016).

In an article in *Vulture*, McDonald acknowledged that she likely would have spent her entire 41-month sentence in solitary confinement had she not had a large network of advocates outside of the prison fighting for her to be released into the general population. Activists started the CeCe Support Committee, and over 18,000 people signed a Change.org petition asking the prosecutor to drop McDonald’s case.<sup>2</sup> This group ran call-in campaigns to get McDonald removed from solitary, but even with this advocacy and McDonald’s own requests, it took three months for her to be transferred out.

The prison’s resistance to McDonald’s demands demonstrates that her protective custody status was not about offering her a sense of legitimate safety; although it was purportedly an attempt to protect her from a real threat of violence, her experience in solitary confinement was torturous. McDonald was given additional (unwanted) protection because of her gender identity, but because the structural options were built out of racist, transphobic logics and technologies of containment, they generated further violence. When she was transferred to the general population, McDonald was overwhelmed and afraid as she adjusted to being around other people (Lockett 2016). She was subjected to gender expression policies that restricted her from wearing shorts or wigs, again supposedly to protect her from other inmates. McDonald said she felt hypersexualized and oppressed by these “protective” policies: “They try to make you hate yourself as someone who’s [gender] non-conforming”

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<sup>2</sup> See <https://www.change.org/p/free-cece-we-re-looking-at-you-michael-freeman-drop-the-charges-against-cece-mcdonald>.

(Gares 2016). In spite of these violent policies, McDonald was able to receive hormone treatment and form a community.

She was released 19 months after her sentencing, her time reduced for good behavior and the 275 days she served in jail before her trial (Erdely 2014). McDonald still struggles with nightmares, stress, and PTSD, but is a fierce advocate for transgender rights and prison abolition. According to McDonald, she is “unsure of where my future lies... I will be better in time. I will continue on my path to loving myself, and others. But most importantly, to continue in my pursuit of happiness” (McDonald 2011).

McDonald’s traumatic experience in solitary confinement was directly and explicitly related to her gender. She was subjected to torture to “protect” her from violence in the general population, treated in ways that are known to be harmful and destabilizing. McDonald’s case reveals the technology of gender policing beneath the policy of protective custody. In a similar way to how quarantine marks subjects as a threat, protective custody marks trans women as disposable, and they are left to die either by violence in the general population or by isolation. Although she improved and felt more comfortable once she was moved to the general population, as an incarcerated trans woman, McDonald was never safe. In the sexually violent space of a men’s prison, she experienced constant harassment and was at heightened risk of assault. The policy in place to offer her protection resulted in torturous confinement.

Yet McDonald specifically asked advocates not to work for her to be transferred to a women’s prison, arguing that relocation would not make her safe:

It wouldn’t have mattered even if I was sent to a women’s prison. Being around more women wouldn’t have stopped me from dealing with the other

intersections of oppression like sexism, hypersexualization of my body, racism, or violence (McDonald, interviewed in Lockett 2016).

McDonald is a vocal advocate against solitary confinement and its protective claims. In particular, she has spoken out against solitary confinement for incarcerated people on suicide watch, seeing it as a further form of criminalization that causes their mental health to deteriorate (Lockett 2016). However, in spite of work by advocates like McDonald and research showing its harmful effects, solitary confinement is still often used as a treatment for incarcerated people who attempt suicide. For example, Private Chelsea Manning, who has been incarcerated in military prison since 2010, has repeatedly been held in solitary confinement on suicide watch.

### ***Chelsea Manning***

In 2010, Private Manning (known then as Bradley) was taken into custody while on duty in Iraq. Held on suspicion of leaking classified United States military documents to WikiLeaks, Manning was moved to a facility in Kuwait and placed in solitary confinement. There, Manning had no access to her attorney and was not told what she was being charged with.<sup>3</sup> Guards bringing her food would taunt her by telling her she was awaiting interrogation or being sent to Guantánamo Bay (Manning 2015). At the time, Manning was questioning her gender, identified as gay, and served under the oppressive Don't Ask Don't Tell policy—which allowed gay, lesbian, and bisexual people to serve in the military provided that they were not open about their sexuality; trans people were not allowed to serve in the U.S. military. While incarcerated in Kuwait, Manning began to fear that she was “forever going to

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<sup>3</sup> Throughout this section, I use the pronouns that Manning currently prefers.

be living in a hot, desert cage, living as and being treated as a male” (Manning 2015).

This isolation and uncertainty took an extreme toll on her mental health:

At the very lowest point, I contemplated castrating myself, and even – in what seemed a pointless and tragicomic exercise, given the physical impossibility of having nothing stable to hang from – contemplated suicide with a tattered blanket, which I tried to choke myself with (Manning 2015).

After a month, Manning was transferred back to the United States and held in a 6x8 foot cell in Virginia. There, she was classified as a “prevention of injury” prisoner and placed under highly restrictive solitary conditions, supposedly to prevent her from hurting herself:

For 17 hours a day, I sat directly in front of at least two Marine Corps guards seated behind a one-way mirror. I was not allowed to lay down. I was not allowed to lean my back against the cell wall. I was not allowed to exercise. Sometimes, to keep from going crazy, I would stand up, walk around, or dance, as “dancing” was not considered exercise by the Marine Corps.... To pass the time, I counted the hundreds of holes between the steel bars in a grid pattern at the front of my empty cell. My eyes traced the gaps between the bricks on the wall. I looked at the rough patterns and stains on the concrete floor – including one that looked like a caricature grey alien, with large black eyes and no mouth, that was popular in the 1990s. I could hear the “drip drop drip” of a leaky pipe somewhere down the hall. I listened to the faint buzz of the fluorescent lights (Manning 2016).

In the seven years that Manning was incarcerated for releasing the documents, she describes this time in Virginia as the most difficult. She was not allowed to use hygienic supplies, books, and on some occasions even her glasses without supervision (Manning 2015). Each night, she was forced to surrender all of her clothing to guards and wear a “suicide prevention” smock (Manning 2015). In March 2011, military prison officials announced that Manning would be stripped every night and required to stand naked outside her cell in a morning inspection (Savage 2011). This was deemed a “precautionary measure,” and a lieutenant said that he could not explain

what prompted it “because to discuss the details would be a violation of Manning’s privacy” (Savage 2011).

Yet somehow, it was not a violation of Manning’s privacy to observe her constantly, both with guards and by camera, or to control her movement by having groups of guards escort her in chains and limit her human contact (Manning 2015). Manning had been in custody for nearly a year when she was finally moved to the general population and allowed to interact with others again, though she had not yet been convicted of anything (Manning 2015). On August 21, 2013, Manning was sentenced to 35 years in a military prison for leaking classified documents.<sup>4</sup> The following day, Manning made a public statement announcing her intent to transition to living as a woman and change her name to Chelsea Elizabeth, a transition she had delayed because of the trial (Manning 2015).

However, the military denied Manning’s request for gender-affirming hormones and dress (Manning 2015). She was housed in the general population at a men’s military prison in Kansas, and she was not allowed to begin hormone treatment until early 2015 (Manning 2015). Although her treatment in Virginia had been declared torture by Amnesty International (Brownworth 2013), and decried by the United Nations and activists worldwide, Manning’s experience with solitary confinement was not over. In 2015, she faced indefinite solitary confinement for a number of disciplinary infractions including “attempted disrespect, the possession of

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<sup>4</sup> The military prison is an institution of the prison-industrial complex that contains soldiers for “desertion, mutiny, and treason” as well as supposed “enemy combatants” (Gordon 2009, 167). Military prisons like Abu Gharib and Guantánamo Bay are infamous for extreme violence, and are some of the few cases where carceral violence is regarded as problematic. These are also spaces of gender violence, as like the military itself, military prisons police strictly gendered appearances and behaviors. For more about the connections between the military and PIC, see Gordon (2009).

prohibited books and magazines while under administrative segregation, medicine misuse pertaining to expired toothpaste, and disorderly conduct for pushing food onto the floor” (Johnson 2015). Although Manning was not placed in solitary at this time, her attorney Nancy Hollander spoke to the reasons behind the charges: “It appears to be an attempt to silence her. Chelsea writes quite a bit. She is vocal. Certainly [it’s] not a national security issue” (Johnson 2015).

The prohibited books and magazines in Manning’s possession included copies of *The Advocate* and *Out*, a *Vanity Fair* issue featuring Caitlyn Jenner, and books by transgender writers. It is clear that Manning’s gender identity played a role in her treatment, and this punishment was a form of gender policing. She was found guilty and sentenced to three weeks of recreational restrictions (Brighe 2016). This restricted both her access to material that affirmed her gender, and to other incarcerated people, punishing her for her gender deviance.

In 2016, Manning again faced charges that could lead to indefinite solitary confinement after she attempted suicide on July 5. She was disciplined on a charge of “conduct which threatens,” “which alleged that by making an attempt on her own life, Manning had interfered with the ‘orderly running, safety, good order and discipline, or security’ of the facility” (Pilkington 2016). This charge demonstrates that, despite protective claims, solitary confinement was not for Manning’s own protection; the smooth operation and dominant masculinity of the prison was at stake, not her safety and mental health. She was sentenced to a week in solitary confinement, despite evidence that solitary is dangerous for incarcerated people who are suicidal (Pilkington 2016). While in solitary confinement, Manning had no contact with social

media or the network of advocates who were supporting her. While this was a form of policing intended to silence her, it also cut her off from her support system; Manning attempted to kill herself again on her first day in solitary (Savage 2016).

At the beginning of September 2016, before Manning was sentenced, the military agreed to allow her to have gender reassignment surgery. However, Chase Strangio, her lawyer, asserted that her subsequent solitary confinement sentence shows that Manning would be “punished for trying to end her life and punished for living” (Pilkington 2016). She had been marked as disposable and was targeted for violence no matter how she behaved; while the international attention to her case meant that Manning could not be killed without public outcry, the gender policing and solitary confinement she was subjected to in prison created conditions of slow death.

Manning survived the week in solitary confinement and was moved back to the general population (Savage 2016). These attempts to silence and destabilize her have not been successful; she has remained vocal and firm in her belief that she acted as a whistleblower. On his final day in office, President Barack Obama commuted her sentence. Manning will be released from prison on May 17, 2017 after seven years of incarceration—much of it purportedly in solitary confinement in the name of her own protection, but in reality protecting the masculinity and orderly operation of the prison (Savage 2017).

Doe’s, McDonald’s, and Manning’s experiences in solitary reveal that protective custody is a practice of gender policing, follows white supremacist and transphobic logics, and is not a safe alternative to the violence of the general

population; it is torture in and of itself. While protective custody status was created to attempt to offer some kind of safety to incarcerated trans people, like PREA, it does not address the carceral logics discussed throughout this thesis that target queer people and mark them as disposable. The exclusionary politics of protection and over-surveillance discussed in chapter two are evident in Doe's case; the DFC failed to protect her from abuse at the hands of family and facilities, but was quick to police and (over)punish her behavior by quarantining her supposedly violent threat to DFC institutions. When she was placed in solitary confinement, she was barred from any kind of intimacy or support to help her process her trauma, like previous generations of incarcerated people with HIV who were denied basic social support and relationships. McDonald was also subject to the exclusionary politics of protection, incarcerated as punishment for defending herself from a racist, transphobic attack. Manning's placement in solitary confinement on charges of "conduct that threatens" was a kind of quarantine, working to protect the smooth functioning of the military prison by isolating her and her perceived queer threat.

When trans people are placed in solitary confinement because they are trans, they are being targeted and marked as disposable because of their queerness. Even when they are housed in solitary in a purported attempt to protect them, the resulting dissolution of identity and removal from sociality are forms of gender policing. Thinking alongside Guenther and Rhodes, protective custody unmakes not only the individual's gender identity but their very personhood. Through this torturous process, protection is given not to the person housed in protective custody, but to the stability of heteronormative gender within and outside the prison. This policy,

intended to protect incarcerated trans people, actually serves to create suffering. By nature of the white supremacist and heteropatriarchal logics of incarceration—in which there is no safety for trans people—protective custody harms incarcerated trans people in the service of securing the gender binary in the general population.

### Conclusion

In response to the increasing incarceration of women and criticism of protective custody, some prison reformists have created a framework of gender responsiveness that claims to make prisons safer for women and trans people. The National Institute of Corrections designed the gender responsive prison model in the 1990s, during the rapid expansion of the PIC at the end of the 20th century. This movement argued that incarcerated women needed gender-specific institutional practices and programs that accounted for the high rates of domestic violence and substance abuse among inmates. The Center for Substance Abuse Treatment advocated a model of gender responsiveness that also addressed:

Low self-esteem, race, ethnicity and cultural issues, gender discrimination and harassment, disability-related issues, where relevant, relationships with family members and significant others, attachments to unhealthy interpersonal relationships...eating disorders...parenting, grief related to the loss of alcohol and other drugs, children, family members or partners...appearance and overall health and hygiene (Covington 2001).

Taking up the language of feminism, advocates of gender responsive prisons pushed for policies that acknowledged that “gender makes a difference” (Covington and Bloom 2007, 12):

Unfortunately, services available to women in correctional settings are rarely designed to match the specific needs of female offenders. Therefore, in conceptualizing treatment programs for addicted women, it is essential that

providers ground theory and practice in a multi-dimensional perspective. Increased sensitivity to women's needs is necessary in order to design effective programs over the long term (Covington and Bloom 2007, 11).

These programs are often based in heteronormative behavioral reform and stereotypes about why women are incarcerated. They build on the history of gender training in prisons in the 19th century, attempting to shape heteronormative mothers and wives. These policies also perpetuate racist and sexist state violence, such as the “gender responsive” practice in California to offer sterilization to incarcerated women during or immediately following birth (Shaylor 2009, 151).<sup>5</sup> While purportedly designed to improve the quality of life in women's facilities, gender responsive legislation typically authorizes the construction of new prisons, which are then filled disproportionately with women of color. Activists such as Misty Rojo of Justice Now have said that gender responsiveness is a tactic to gain public approval for further expansion of the PIC:

Through the idea of gender responsiveness, the prison regime has appropriated feminist discourse by using the language of “specific needs for women” in order to manipulate the public into favoring prison and jail expansion as “progressive” and necessary for the well-being of women prisoners (Rojo 2014).

These policies—like quarantine, PREA, and protective custody—mask carceral violence while expanding surveillance and carceral spaces, and they are advocated in the name of protecting and improving women's lives. The faux feminist language used by gender-responsive advocates claims to acknowledge the needs of those who are most vulnerable to violence, while simultaneously authorizing the warehousing ever more women of color and queer women. The California Coalition

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<sup>5</sup> As discussed in chapter one, the United States has historically forcibly sterilized women of color during and following delivery. For more information on this bill, see Shaylor (2009).

for Women Prisoners said the California Department of Corrections and Rehabilitation has “a history of trying to coopt activists working for women prisoners into supporting so-called ‘gender responsive’ programs which actually feed into the expansion of the PIC” (Angola 3 News 2011). In this way, gender responsiveness is an attempt to direct attention and action away from state violence and discourage activists from more radical goals.

Despite criticism, advocacy for gender responsive prison policies continues and has expanded to include transgender responsiveness. Italy announced in 2010 that it was constructing the first transgender prison, designed specifically for trans women convicted of drug and prostitution crimes (BBC 2010). In line with the other reforms I have discussed, gender responsive policies advocate expanding the prison-industrial complex in the name of responding to the needs of those who are disproportionately targeted for surveillance, policing, and violence—both in carceral spaces and outside. As McDonald and many other advocates have argued, changing the “gender” assigned to a prison does not make it a safe place. Housing trans women in a women’s prison or a prison specifically for trans people fails to address systemic racism and the sexual violence of incarceration itself, as well as the violence perpetrated by guards. In some ways, creating prisons for trans people is a kind of quarantine, and may foster further stigma.

In terms of solitary confinement, isolation remains torture regardless of the gender of the people isolated nearby. Doe was held in solitary confinement in a prison that reflected her gender identity, but this did not lessen the trauma and sense of abandonment of isolation. Gender responsive prisons do not offer a solution to the

kinds of violence that are perpetuated and masked by quarantine, PREA, and protective custody. As Burgess said during the *Free CeCe!* campaign, “A women’s prison isn’t going to be safe. A men’s prison isn’t going to be safe. Prisons aren’t safe for people, period.”<sup>6</sup>

Gender responsive policies may make institutional changes that help some incarcerated people, but they expand the capacity of the PIC while reproducing its legitimacy. These policies create the appearance of working towards a better prison without offering any meaningful safety. As I’ve argued throughout this thesis, I do not believe that there is such a thing as a just prison or a safe prison. Policy reform does not offer the possibility to address eugenic logics of white supremacy and heteropatriarchy, the sexual nature of carceral spaces, and the torture of confinement; the only way to truly disrupt the racist, homophobic, and transphobic logics that underlie the PIC is through abolition.

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<sup>6</sup> Burgess appeared on *The Melissa Harris Perry Show* with McDonald on January 19, 2014 in a segment called “No one can ‘take my identity away from me.’” The clip can be found at <http://www.msnbc.com/melissa-harris-perry/watch/how-the-system-treats-trans-people-121475139959>

## Conclusion Advocating for Abolition

“Like slavery, there is no other way around the violence of the [prison-industrial complex], so we have to destroy it. We can’t hold onto these powerful institutions that oppress people and expect that they will go away just because we reform them. Of course, change is good, but in instances of systemic oppression, like prisons, there is no way for it to be reformed.”

– CeCe McDonald, Forward to *Captive Genders*

“From where we are now, sometimes we can’t really imagine what abolition is going to look like. Abolition isn’t just about getting rid of buildings full of cages. It’s also about undoing the society we live in because the PIC both feeds on and maintains oppression and inequalities through punishment, violence, and controls millions of people.”

– Critical Resistance<sup>1</sup>

To conclude, I wish to return to Stephen Dillon’s words that opened this thesis: “The prison is more than an institution composed of cages, corridors, and guard towers; it is also a system of affects, desires, discourses, and ideas that make the prison possible” (Dillon 2015, 178). In each chapter, I have sought to unpack parts of this system, to understand their histories, their taxonomies of human life, and their functionality both in and outside of the prison. Which populations are targeted by these enduring logics of white supremacy and heteropatriarchy, and what is their lived reality? How do technologies of quarantine, surveillance, and gender policing contribute to the PIC’s project to contain threats to and reproduce the social order and ensure heteronormative white futurity? How are narratives of protection used to mask this carceral violence, legitimizing and naturalizing carceral spaces? I charted these logics across major reforms—the institution and removal of HIV quarantine, the passage of the Prison Rape Elimination Act of 2003, and the initiation of protective

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<sup>1</sup> This quote from the “What is the PIC? What is abolition” page of the Critical Resistance website. It can be found at <http://criticalresistance.org/about/not-so-common-language/>.

custody for trans women—to show that institutional-level change cannot not challenge these logics because it is itself *born* of them.

Given the insufficiency and indeed the violence of reform, it is easy to feel discouraged about the possibilities for meaningful resistance of the PIC. I have often fought the temptation to give up as I worked on this project, to say that we have no chance at creating real justice. For how can we fight an institution so fully ingrained in our society, destroy logics that stretch so far beyond its walls? How do those of us on the outside work to help incarcerated people survive without legitimizing the existence of the carceral state? Since reforming the prison is not a viable option for justice, I turn to abolition as a guide. Building on the work of abolitionist activists, I argue that envisioning a world without police and without prisons is the only way to truly resist the hegemonic logics that underlie the prison-industrial complex.

Abolition is often discussed as a fantasy, an impossibly idealistic goal that can never be brought to fruition. I believe that this criticism arises from the fact that, as the Critical Resistance website suggests, envisioning an abolitionist future is often difficult and sometimes impossible. We cannot fully escape our current point of view—where prisons and policing are naturalized and omnipresent—to see what restorative, transformative justice would look like in a world where those structures do not exist.<sup>2</sup> It is not always possible to imagine the best way to remake the world

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<sup>2</sup> The question I received most often when talking about writing an abolitionist thesis was “But what will we do with the murderers?” While I do not think we can know now whether or what kinds of violence will exist in an abolitionist society—one without poverty, racism, and queer/transphobia—I point those who are skeptical to the final chapter of Angela Davis’s *Are Prisons Obsolete?*, which gives an emotional and compelling account of alternative, transformative justice. Abolitionist activists Reina Gossett and Dean Spade also address this question, arguing that no one is innocent and we must shift what counts as violence to include state violence. Their video “What About the Dangerous People?” is available here: <http://bcw.barnard.edu/event/no-one-is-disposable-everyday-practices-of-prison-abolition/#videos>.

before it has been unmade. However, the uncertainty of the structures of an abolitionist society certainly do not preclude working towards abolition, which, in the words of the Critical Resistance website, is “both a practical organizing tool and a long-term goal.”

In working towards that long-term goal, organizations like Critical Resistance, Justice Now, Legal Services for Prisoners with Children, the California Coalition for Women Prisoners, and hundreds of others do practical abolitionist work every day. These groups, often small, grassroots coalitions, advocate for racial, class, gender, and queer justice as a means of dismantling the prison-industrial complex. Here, I mention only a few organizations and their work to paint a picture of what abolitionist activism can look like. A whole book could be written to discuss the different forms abolitionist resistance can take, and indeed should be written as we continue to work to understand and undermine the PIC. This work must support the activism and resistance of incarcerated and formerly incarcerated people, such as the women of ACE, CeCe McDonald, and the others whose voices have shaped the abolitionist movement.

Abolitionist groups often center incarcerated and formerly incarcerated people in their membership and leadership. Some organize letter-writing campaigns or run newsletters by and for incarcerated people, such as the *Black & Pink* newsletter. Others, such as Legal Services for Prisoners with Children, help incarcerated people work within the PIC’s structure to keep custody of their children, be moved out of

solitary confinement, and challenge ableist prison policies.<sup>3</sup> Other campaigns, like Free CeCe! work to improve the conditions for individuals who are in solitary confinement or are being denied medical care. Indeed, Doe, McDonald, and Manning were all transferred out of solitary confinement following activist campaigns. McDonald has described her support system as having an atmosphere of love (Gares 2016).

Many abolitionists groups do advocate for policy change, but not in the name of fixing the prison. They instead advocate for policies that reduce harm and make life more livable for people who are incarcerated, while working towards a larger vision of a world without policing and incarceration. Dean Spade offers a framework for questioning whether a policy furthers an abolitionist agenda; he asks whether a reform “provide[s] material relief...leave[s] out an especially marginalized part of the affected group... legitimize[s] or expand[s] a system we are trying to dismantle...[and] mobilize[s], with accountability, for ongoing struggle” (Spade 2017). For example, as of the writing of this thesis, Critical Resistance is working to stop legislation that would limit the days of the week that visitors could come to New York state maximum security prisons. They are advocating instead to expand in-person visiting hours to give incarcerated people more access to their support

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<sup>3</sup> As discussed briefly in chapter one, incarcerated people with disabilities are frequently targeted by eugenic policies. As this thesis has argued with queer-identified people, policies designed to offer protection to people with disabilities perpetuate and mask carceral violence against them. For example, the Alameda County Jail in California housed certain people with disabilities in the Outpatient Housing Unit, which is akin to solitary confinement. They were purportedly held in this unit, also known as the infirmary, to ensure access to necessary care. For more information, see [http://www.prisonerswithchildren.org/wp-content/uploads/2012/11/SantaRita\\_PressRelease.pdf](http://www.prisonerswithchildren.org/wp-content/uploads/2012/11/SantaRita_PressRelease.pdf).

networks and loved ones. Additionally, activists in California are fighting a \$2.3 billion jail plan that would include building a gender responsive women's jail.<sup>4</sup>

Prison abolition work, however, must extend outside of the prison to activism around policing, poverty, capitalism, and systemic oppression. BlackLivesMatter, though not explicitly an abolitionist organization, takes up some tenants of abolition, working to demilitarize the police, end broken windows practices, and end for-profit policing to reduce surveillance in communities of color. Other organizations work to create solidarity and provide resources in communities that are targeted for surveillance and violence. Abolition is a project of remaking the social and economic order of the world, and ensuring that everyone has resources is a crucial part of destroying the PIC.<sup>5</sup>

The policies explored in this thesis are violent and cruel, dehumanizing and unjust—and they are just the beginning. The prison is but one carceral space, people with queer genders and sexualities but one targeted population, and America but one country in the expanding prison-industry complex. To return to Dillon, “escape does not mean getting out” (Dillon 2015, 178), for how can incarcerated people “get out” of a complex that is diffused throughout western society, that neoliberal capitalist leaders are heavily pressuring all countries to adopt? Reforming the PIC cannot address the biopolitical roots of this project of racialized social control, and the much

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<sup>4</sup> Information about these campaign can be found on the Critical Resistance web page. For more about their work around visitation, see the information under “Oppose the Cutbacks! Gov Cuomo Plans to Reduce Visiting Hours at New York’s Maximum Security Prisons” on the page of their New York chapter. Additional information about resisting the gender responsive jail can be found under “Our Work” for the Los Angeles chapter.

<sup>5</sup> Here, we see how abolition is entwined with other movements for social justice. Creating abolitionist society means creating equality by, to name only a few necessities, eradicating poverty, eliminating racism, and ensuring reproductive justice.

older logics of white supremacy and heteropatriarchy on which that foundation is built. To create a just society, we must dismantle the PIC. Only through envisioning an abolitionist world can we work towards true justice.

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