

Introduction

This project began before it began, more than five years ago, when I wrote an essay titled “Against Innocence.” That was before the Black Lives Matter movement, during a time when taking an antipolice position was often considered scandalous, even in some leftist circles. It was a period of frenetic political activity and thinking. Inspired by the “movement of the squares”—by Occupy Wall Street and the global wave of revolts—many of us partook in intense collective experiments with each other. By cooking and sharing food, starting art and mental health collectives, supporting prisoners, starting queer and people of color intentional communities, bootlegging and circulating inspiring essays, occupying buildings and public spaces, politicizing our understanding of friendship, and engaging in other cooperative activities, we suffused desire into our practices and

moved politics beyond the compartmentalized realm of “organizing” and into our daily lives. These were political experiments, yes, but also experiments in creating new modes and rhythms of being and material social networks rooted in the reproduction of everyday life.

The event that launched this global wave of uprisings and politicized many people of my generation was the Arab Spring, and the Occupy movement that followed it. But what began as the Arab Spring has, in the intervening years, devolved into chaos and become the proscenium on which global powers use proxy warfare to flaunt their military might. A moment of possibility has since turned into six years of civil war in Syria; the economic and political implosion of Egypt, Libya, Yemen, and other nations; the revival of Russia as a global military power; and a so-called “refugee crisis” that has sparked reactionary movements across Europe and is galvanizing support for fascist, neofascist, populist, and ultra-racist right-wing parties.

At the time, it seemed possible to topple governments by assembling in squares, to collectively plan our futures through the people’s mic and consensus decision-making process. Some believed the revolution could be carried out through the Twitter hive mind and calls to action issued on Facebook. When the Occupy movement took off in the

United States, analyses of the structural role of the police—to maintain white supremacy and capitalism—were pushed to the margins. Many argued that the police were friends of the protesters, that they were oppressed as workers and thus should not be treated with hostility and suspicion. But everywhere across the United States it was the police who evicted the Occupy encampments, often raiding the makeshift camps in the middle of the night, demonstrating once again that as soon as the status quo is threatened, the police will be used as an instrument of political repression.

So much has changed since that moment—in both positive and negative directions, for the world is always moving in multiple directions. Since I began this project, I have watched the birth of the Black Lives Matter movement, which has radically transformed how racism is conceived and contested. While attending a packed panel at Harvard University on Ferguson and the history of the Civil Rights Movement, the comments of the panelists and the audience made me aware of just how much has changed in a little over half a decade. I knew that the discursive terrain had been completely transformed when I listened to the rapper Tef Poe tell the Harvard audience—to great applause—that flipping cop cars was a legitimate form of protest. Mainstream magazines and news outlets such as *Time*, *Rolling Stone*, MTV News,

and *The Nation* also ran stories validating rioting as a protest tactic in the wake of the riots and police killings that took place in 2014–15 in Baltimore, Ferguson, Oakland, and other cities.

Before the Ferguson moment and the Black Lives Matter movement I felt compelled to write “Against Innocence” as a response to what I felt was a discursive and political impasse—that is, liberalism’s stranglehold on how we understand both the nature of racism and which tactics are legitimate to counter racism. As someone who has extensively researched and is personally affected by mass incarceration, I know that in the United States, blackness is associated with guilt and criminality. Though this conflation has been around for more than a century—as Khalil Muhammad notes in *The Condemnation of Blackness*—in the 1960s–’90s criminologists, politicians, and policy makers worked vigorously to consolidate the image of the black criminal in the public imagination. For this reason, it seemed counterproductive to construct an antiracist politics founded on the moral framework of innocence, whereby only “respectable” subjects are considered proper symbols for the contestation of racism. Such a political framework would ensure that forms of structural and state violence against those who are not “proper” victims would remain illegible and fail to register as a scandal. The a priori

association of blackness with guilt and criminality comforts white America by enabling people to believe that black Americans are deserving of their condition and that the livelihoods of whites are in no way bound up with black immiseration. At the same time, the framework of innocence—which fetishizes passivity—delegitimizes militant forms of revolt that may be more potent in actually challenging racism. Though the liberal antiracist framework has not been completely dismantled, I feel that the new, younger generation of activists are not so easily beguiled by the political establishment and the promise of state recognition—unlike those who just a few years ago quixotically held to the belief that it was possible for revolutionaries and the police to be bedfellows.

Not only did the Ferguson Uprising make the public acutely aware of just how constitutively racist the police are, it also attracted enough attention that the Department of Justice (DOJ) launched an investigation into the practices of the Ferguson Police Department. The investigation ultimately revealed the existence of a system of municipal plunder involving the city financial manager, John Shaw, and the police department. The DOJ discovered that not only were the police killing and harassing residents, but the city was also using the police and the courts to generate revenue to balance the municipal budget. After

reading the report and researching this topic, I began to pay closer attention to news stories related to municipal and state finance. I realized that across the country, municipalities and states were increasingly dependent on the use of coercive extractive mechanisms that squeezed the people on the bottom for cash. What the fuck was going on?

For me, these methods of extraction mark a turning point in what some have called the neoliberal era. Neoliberalism has been defined as:

a set of policies and ideological tenets that include the privatization of public assets; the deregulation or elimination of state services; macroeconomic stabilization and the discouragement of Keynesian policies; trade liberalization and financial deregulation; a discursive emphasis on “neutral,” efficient, and technical solutions to social problems; and the use of market language to legitimize new norms and to neutralize opposition.¹

Nearly half a century of economic policies that have eroded the power of labor and enabled a high degree of capital mobility has not only resulted in a fiscal race to the bottom that has gutted the tax base in this country, but has also transformed the nature of governance itself. If—to borrow Wolfgang Streeck’s taxonomy—the *tax state* (i.e.,

the postwar Keynesian welfare state) has evolved into the *debt state* (which authorizes austerity), then what we are witnessing now is the emergence of the *predatory state*, which functions to modulate the dysfunctional aspects of neoliberalism and in particular the realization problem in the financial sector. Modern monetary theorists assert that governments with fiat currency systems (which the U.S. became when President Richard Nixon took the country off the gold standard in 1971) do not need to raise revenue to cover government spending, as they are the monopoly issuers of their respective currencies. However, this is not true for U.S. states and municipalities, as they are unable to issue the U.S. currency, nor can they function by arbitrarily raising their debt ceilings. States and municipalities must either issue bonds (and continue to make payments on their debts) or find a way to raise revenue. Although states cannot file for bankruptcy, municipalities can file under Chapter 9, Title 11 of the United States Code. Depending on the laws of a given state, some municipalities can use bankruptcy to discharge their pension obligations. During the Detroit bankruptcy, the bankruptcy lawyer Timothy M. Wittebort appeared on television touting the widely held (false) myth that *ordinary people* own the public debt, and thus investors should be given equal priority to pensioners. In reality, between

1989 and 2013, household holdings of municipal bonds have fallen from 4.6 percent to 2.4 percent, and in 2013 the top 0.5 percent of the wealthiest households owned 42 percent of all municipal bonds.² The question of who owns the public debt is a political one that enables the financial sector and the wealthiest Americans to assert their interests by claiming that they are *everyone's* interests. As the public debt is financialized and the money to cover government expenditures is increasingly supplied by the financial sector, government bodies become more accountable to creditors than to the public. Over time, this has a de-democratizing effect.

In short, the outcome of neoliberal policies and federal fiscal retrenchment has been not only privatization and austerity, but predatory and parasitic governance on the state and local levels and indebtedness as a generalized social condition. Increasingly, local governments are engaging in risky forms of borrowing, making high-risk financial bets with public money. When these deals go south—as many of them did in the wake of the 2008 financial crisis—governments have sought to balance the budget on the backs of the poor, the unemployed, and black and brown people. Since tax codes are designed such that corporations and wealthy people can easily evade taxation, when the housing market collapsed in 2008, local governments

lost a substantial portion of one of their key revenue streams: property taxes. Recently the city of Miami, Florida, sued the Bank of America for indirect financial harm caused by discriminatory subprime mortgage lending, which targeted black and Latinx borrowers for high-interest loans that were designed so that the borrowers would default.

By examining recent political developments, we can uncover the interrelatedness of the economy, policing, and municipal finance: the collapse of the housing market created a global economic crisis, which led to the loss of revenue for municipalities, which catalyzed the creation of municipal fiscal schemes that used the police to plunder residents. But given that local law enforcement officers are bankrolled by municipalities, wouldn't their existence be threatened by this new fiscal situation? Although under neoliberalism the power of labor has been weakened in both the public and private sector, police continue to operate with bloated budgets and collect generous pensions. Indeed, in recent years, police unions (and sometimes firefighter and prison guard unions) are among a meager handful of unions that have actually fared well. When Wisconsin governor Scott Walker rewrote state labor laws and dismantled collective bargaining rights, he protected police and firefighter unions and excluded them from state pension cuts.

Although financing the security apparatus remains a priority of local governments, revenue shortfalls have still put pressure on local police departments. In *The Police Chief* magazine, Paul LaCommare—a commander from the West Covina Police Department—opens an article about using the police to generate new revenue streams with the observation that a “downward spiral in California city governments’ revenue streams has occurred for the last five years starting with the housing bubble that burst property tax returns by 40 percent.” He goes on to note that the “common reaction to a budget crisis is reducing personnel and cutting services. The focus of this article is to provide police agencies with an alternative to personnel and service reductions.”³ In 2008, “experts in the fields of city government, business, real estate, and entrepreneurship” met to “identify possible new income streams that could be initiated by law enforcement.” The ideas include:

fees for sex offenders registering in a given jurisdiction, city tow companies, fine increases by 50 percent, pay-per- policing, vacation house check fees, public hours at police firing range for a fee, police department-run online traffic school for minor traffic infractions, department-based security service including home checks and monitoring of security cameras by police department,

a designated business to clean biological crime scenes, state and court fees for all convicted felons returning to the community, allowing agency name to be used for advertisement and branding, triple driving-under-the-influence fines by the court, resident fee similar to a utility tax, tax or fee on all alcohol sold in the city, tax or fee on all ammunition sold in the city, public safety fees on all new development in the city, 9-1-1 fee per use, police department website with business advertisement for support, selling ride-a-longs to the public, and police department-run firearm safety classes.⁴

Many of the ideas offered above, which represent a move toward offender-funded policing and punishment, incentivize the hyper-exploitation of residents by the police by directly monetizing policing or by using fees and fines to squeeze money out of people who come into contact with police. Places such as Ramsey County, Minnesota, have recently come under fire for charging a range of fees for arrest, regardless of a guilty conviction. As this article suggests, in the new fiscal environment, police are increasingly taking on the role of directly generating revenue, which ensures that their departments do not suffer extensive budget cutbacks and layoffs when there are municipal revenue shortfalls. In other words, their survival and

expansion becomes bound up with their capacity to use the police power and the court system to loot residents. As we have seen with the explosion of prisons in the latter half of the twentieth century (which occurred alongside market liberalization), the supposed scaling back of government does not necessarily lead to the shrinking of police, prisons, and military spending. Prisons and law enforcement may actually grow when the ideology of small government is hegemonic because the maintenance of law and order is considered the proper (morally authorized) domain of government. For Bernard E. Harcourt, neoliberal penalty is rooted in “the assumption of government legitimacy and competence in the penal arena and, on the other hand, the presumption that the government should not play a role elsewhere.”⁵ However, the collapse of the tax state owing to neoliberalization has created a situation where the livelihoods of local government bodies are increasingly tied to predatory fiscal structures that foster looting.

Although it's important to analyze the economic conditions that have been driving contemporary police practices, an analysis of prisons and police that solely focuses on the political economy of punishment would be incomplete. There are gratuitous forms of racialized state violence that are “irrational” from a market perspective. From an economic perspective, the new sentencing regime

that emerged alongside the War on Drugs—such as three strikes laws for drug possession—make little economic sense: Why waste an exorbitant amount of public money on incarcerating non-violent offenders, sometimes for life? If you analyze the situation from the perspective of the rural white Americans who benefit from the creation of prison jobs that accompanies the expansion of prisons, then there is an economic rationale. However, this lens, in itself, is not sufficient to explain many facets of mass incarceration, including the mandatory juvenile life without parole sentencing regime that was codified in law in the mid-1990s. In my essay “Packing Guns Instead of Lunches,” I examine the interplay between criminological discourse, biopolitics, and law.

I wrote this essay on the criminalization of juveniles right before Black Lives Matter activists disrupted a rally for Hillary Clinton. The young activist Ashley Williams interrupted a fundraising event for Clinton in Charleston, South Carolina, and asked why Clinton used the term “superpredator” in a 1996 speech to rally support for Bill Clinton’s 1994 crime bill. While the law-and-order political climate of the 1980s and ‘90s made it difficult for politicians to get elected without espousing a tough-on-crime stance, the political climate has changed such that the exposure of Clinton’s past use of the “superpredator” rhetoric

was an embarrassment during her recent presidential campaign. On the issue of mass incarceration and punishment, it seemed, for a moment, that the tide was turning. Support for the War on Drugs has been waning, and drug use has been reframed as a public health problem, perhaps because opiate drug addiction has made incursions into white America. Given the structural barriers that prevent white Americans from feeling empathy toward black Americans, it's not surprising that draconian policies that criminalize drug use are being scaled back now that drug use is also a "white problem." Prior to the election of Donald Trump, it also appeared that the U.S. was becoming less punitive. Not long before Trump's election, the Pew Research Center released a report stating that public support for the death penalty was the lowest it's been in forty-five years: in 1994 it was 80 percent, in 2016 it was at around 49 percent.⁶

Then, during the 2016 election, we saw a dramatic pivot toward punishment. All three states with death penalty referendums voted in favor of capital punishment: California and Oklahoma voted to keep the death penalty on the books while Nebraska voted to reinstate it. This was not surprising given that the Pew survey also found that men and white people were more likely to support capital punishment—also the demographic that was rallied by Trump. With the election of Trump

and the selection of Senator Jeff Sessions for the position of attorney general, the situation does not look promising for those of us who have been fighting for the abolition of prisons and police. During his inaugural address, President Trump, drawing on the tough-on-crime politicospeak of yore, painted a bleak picture of American cities: our streets, he claimed, are ravaged by crime, "carnage," and lawlessness. He vowed to support law enforcement and revive America; overall, his rhetoric suggests that under his presidency there will be a reinvigoration of the War on Crime and the War on Drugs.

The day I posted my essay on juvenile life without parole (JLWOP) sentences on my blog, the U.S. Supreme Court determined, in the court case *Montgomery v. Louisiana*, that the decision reached in *Miller v. Alabama* (which rendered mandatory JLWOP unconstitutional) applies retroactively.⁷ These Supreme Court rulings still leave open the possibility of judges sentencing juvenile offenders to life without parole; they merely stipulate that judges must consider the juvenile status of the offender during sentencing. However, these rulings have created a legal gray area that has led many states to grant resentencing hearings to those given JLWOP, including my older brother. It is too soon to tell if these Supreme Court decisions will result in reduced sentences for juvenile offenders. In

Florida, where my older brother is currently in prison, many of those serving JLWOP sentences have been resentenced to life (my brother took a deal for forty years). For a moment it seemed possible to imagine that even discretionary JLWOP sentences would be abolished by the Supreme Court, but now, with a newly conservative federal Supreme Court, this possibility is quickly receding. Without a revolution or a mass street movement, even the nominal legislative progress that has been made to scale back mass incarceration is at risk of being undone.

Sunbelt Penology

Much of my thinking about juvenile sentencing emerged from having to navigate the legal quagmire of my brother's case in Florida. As someone who was formed in the crucible of Florida, I now see that Florida embodies the nexus between neo-conservative policy, social disinvestment, and prison expansion. Florida is at the forefront of what Alex Lichtenstein calls "Sunbelt penology": a penal ideology that emerged in the South but has become paradigmatic across the nation. He labels the region that most vigorously adopted this penal model "Flocatex" after Florida, California, and Texas ("the three largest carceral systems in the nation"): "In the half century since the passage of the LEAA

[Law Enforcement Assistance Administration], by nearly any measure—total numbers of prisoners, expenditures on corrections, employment of personnel, privatization of prisons, and new prison construction—the states of Florida, California, and Texas (what I will call Flocatex) have set the pace for mass incarceration nationally."⁸

The dual processes of social disinvestment and prison expansion were palpable during the years I spent in Florida (from birth until I was twenty-two). While residing there, I attended public schools and a public liberal arts college, New College of Florida. In national surveys the Florida public school system consistently ranks in the bottom 25 percent on measures such as graduation rates, teacher pay, test scores, education spending, and so forth. When the education budget was cut under Jeb Bush, I have a vivid memory of my middle school teacher announcing that there were not enough textbooks for every student, that we would have to leave our textbooks in our desks so they could be shared with students throughout the day (making it impossible to study at home). My classes were overcrowded, many of them held in "portables," which are essentially mobile home-style classrooms that were unsafe, given Florida's vulnerability when it comes to hurricanes. Like many other states across the country, Florida's fiscal policies favored investment in prisons rather than in

education and social programs. As Lichtenstein notes, “Since 1995 Florida has opened eleven major new correctional facilities, six of them run by private corporations.”⁹ Annually the state spends about \$2.3 billion on corrections, and about 16 percent of state employment is in corrections.¹⁰ A 2016 brief from the U.S. Department of Education notes a similar trend across the country: “Over the past three decades, state and local government expenditures on prisons and jails have increased about three times as fast as spending on elementary and secondary education. At the postsecondary level, the contrast is even starker: from 1989–90 to 2012–13, state and local spending on corrections rose by 89 percent while state and local appropriations for higher education remained flat.”¹¹

Before I was able to disentangle the political, economic, cultural, and racial forces that were shaping my context, I could feel their effects. Florida’s postsecondary education fiscal policies were such that the public college I attended as an undergraduate was chronically at risk of going bankrupt. I was halfway through my bachelor’s degree when the 2008 financial crisis hit, and Sarasota was one of the cities hit particularly hard by the collapse of the housing market. Many of the students I knew who were living off campus, including myself, were living in rooms rented in houses that were underwater—houses that were

overvalued and purchased with mortgage loans that eventually became unpayable. Our landlords had stopped paying their mortgages, and foreclosure notices were delivered directly to our doors. During the crash I was also working at the front desk of the cheapest motels in Sarasota: the Seabreeze Inn and the Super 8 (at the time, a room at the Seabreeze Inn cost \$26 a night). Many of the people who came to the motels were transitioning from living in suburban houses to homelessness. The people who rented rooms shared stories of their fall from grace: “I used to have a nice home and a great job,” they’d say. “Then … I lost everything.” But what was it, exactly, that caused the foundation of their lives to collapse beneath them? My high school best friend’s mom, who was a real estate agent, would always boast about how much she was raking in selling so many half-million-dollar suburban homes. Now she was out of a job too. I was twenty during the financial crash, and I barely understood what was happening around me, but these experiences left a deep impression on me. Because Florida had been hit so badly by the collapse of the housing market, as soon as I graduated, New College of Florida was on the brink of bankruptcy owing to state budget cuts. Scholarship funding provided by the state (such as the Bright Futures Scholarship, which most NCF students depended on) was scaled back, and some

of my friends who graduated after me were forced to pay the state thousands of dollars when the state decided to change the rules about how its scholarship funding would be calculated. Now the school is again facing a budget crisis under Governor Rick Scott, who has chosen to allocate funding to universities and colleges based on how many students they placed in STEM jobs in the state of Florida (NCF is a graduate feeder school, so this metric of “success” hardly applies).

Even though I did not have a deep structural understanding of the conditions of my life at the time, the experiences of having a brother in prison, going through the meat grinder of Florida public schools, and witnessing the financial crash as a motel worker, enabled me to acquire an observational understanding of the interplay between the debt economy, neoconservative fiscal policy, mass incarceration, neoliberal market deregulation, and social disinvestment.

The Debt Economy

Because I attended an in-state public school, worked, and received a scholarship and need-based Pell Grant, I am one of the lucky few students who was able to graduate without student debt. Even so, it has been impossible to escape the debt economy. When I was working at a grocery store

for \$5 and change an hour during high school, I would sometimes chat with the baggers about their life plans. One of the boys who attended my high school asked me if I had plans to go to college. I said that although two of my friends tried to coax me into attending Sarah Lawrence College, I ultimately decided to go to New College of Florida because I did not want to be financially fettered after college. He asked me if I would take out student loans. I said that I didn't think it was necessary because I received a full scholarship, a need-based Pell Grant, and was eligible for work-study. He replied that I had to take out student loans, because “everyone takes out student loans.” Here we were: naive teenagers working a minimum wage job in Holiday, Florida, ready to sign our lives and our futures away because we had been told that it's *mandatory* that we go into debt. My best friend, who got me the grocery store job—a Puerto Rican queer goth girl who worked exhaustive hours to buy a green Mustang sports car—was already buried in mountains of debt before she even entered her twenties. Just as disheartening, I watched some of my little brother's friends go into debt trying to get degrees from sham, nonaccredited for-profit schools that later went bankrupt when Barack Obama tried to regulate the industry by barring such schools from receiving federal loans (schools

such as ITT Technical Institute also aggressively advertised at my public high school).

At present, consumer credit has essentially become compulsory. In the last decade or so alone, I have observed a marked intensification of the intrusion of credit into our consumer lives. During our many daily economic transactions we are constantly barraged by opportunities to open a line of credit: Buying something online using PayPal? *Why not buy it on credit?* Need a pair of jeans? *Why not open a Gap credit card and save 10 percent on your purchase?* Opening a bank account? *Why not get “overdraft protection” (which is actually a line of credit)?* Need to exchange currency because you’re traveling? *Why not sign up for a traveler’s credit card?* Whenever I have a flight layover at an airport, I cannot walk from one gate to the next without being chased by people who want me to sign up for a credit card. Nowadays you don’t even need to consent to opening a credit card in order for it to be opened on your behalf, as the Wells Fargo sham account scandal revealed.

When I politely decline an opportunity to open a line of credit, I am often given a moralizing speech about the necessity of building my credit lest I be barred from ever being able to get a loan for a car, a mortgage, or even rent an apartment. Why the hell is a sales quota model being applied to banking? What are they selling you? These

financial institutions are selling you *indebtedness itself*, because borrowed money begets money in the form of *interest*. That is why the largest student loan collection agency, Navient Corporation, deliberately lost students’ payments (as revealed in a recent class-action lawsuit): missed payments ensured that students’ debt would balloon, thus keeping borrowers trapped in a cycle of debt. Thus, as growth in the “real” economy remains low, in our perverted debt economy, falsely categorizing borrowers as delinquent has become a financial opportunity in itself.

There is a kernel of truth in the speech given by the aggressive credit pusher who warns that to do many things in our society, you need to build your credit. Nowadays, credit scores have a number of often invisible effects on our lives. Credit scores (and even more dubious “e-scores” determined by private data mining companies) are often used for hiring purposes because employers believe that credit scores are a reliable way to index a person’s level of responsibility. Yet considering that medical debt is the most common cause of bankruptcy in the United States and that there are racialized structural barriers to accessing nonpredatory forms of credit, it is outrageous to use credit scores as a way to measure someone’s personal character and make moralistic judgments about them. You could have a terrible credit score simply by being an

uninsured black or brown person (without accumulated wealth) who gets into a bicycle accident. In short, using credit scores to punish poor people exacerbates already-existing socioeconomic inequalities.

Although the debt economy has expanded to buttress high levels of consumption amidst stagnant wages and the high-level unemployment that coincided with the financial recession that followed the 2008 crash, the hold that debt has over our lives is not merely numerical. It functions as a disciplinary apparatus as we internalize the ideology that naturalizes indebtedness. As I hope my anecdotes illustrate, we are, from an early age, socialized into a form of financial citizenship that compels us to accept indebtedness as inevitable and to constantly engage in self-disciplinary acts that authorize and extend the debt economy—whether it's pursuing a job as a corporate lawyer instead of a public defendant in order to pay off student loans or telling your peers they are irresponsible for not building their credit.

Prison Technology

Thus far I have offered some personal observations about discourse, law, and political economy, and how contemporary racism operates through these various forms of power. But a contemporary analysis

of prisons, police, and racial domination would be incomplete without an analysis of technology and algorithmic power. The pace of change, especially when it comes to communication technology, is dizzying. In 2004, when my brother was locked up at age seventeen, he did not have an email address, almost never used the internet and—of course—did not have a smartphone, as they had not yet appeared. I did not even have a cell phone until I was a college undergraduate. I remember my brother once asking me in a letter from prison if it cost money to send emails. His question made me painfully aware that technologically speaking, we are living in two different worlds, moving through life at vastly different speeds, with different life rhythms. This sentiment is probably familiar to anyone who has a family member, friend, or lover serving a lengthy prison sentence, for they too have probably had the heartbreakingly experience of being questioned by the confined person about the minutia of how the world works and what it is like on the outside. Ashley C. Ford became aware of the technological distance between prisoners and free people when her father was released from prison. She writes:

Stores were a lot for him. He didn't understand why everyone walked around looking down at their phones. He couldn't fathom what could be

happening on the phone that kept them so entranced. I tried to explain that there were often other people to talk to or look at on phones. Sometimes those people were far away, or people they didn't even know. There were mostly no long-distance fees; there were photos and videos—basically the whole world could be on these screens. He thought about that for a minute and said, “But there are people all around right here. A lot of people we don’t know. Why not just look at them?” I didn’t have an answer to that.¹²

Furthermore, having a family member in prison not only gives me a depressing way to index how quickly the world is changing, it also makes me cognizant of how technology has transformed prison and police practices. At the county jail where my brother was housed while awaiting a resentencing hearing, he could use Jail Mail (essentially a paid email service) to communicate. Instead of sending stamps enclosed in a letter, I was able to deposit money in his account so he could write to me and others. While the introduction of this particular communication technology into this jail enables more immediate communication between inmates and people on the outside, other innovations in prisoner communication technology have simultaneously widened and collapsed the distance

between prisoners and the outside world. In addition to Jail Mail, this jail has also introduced HomeWAV, a prisoner video chat system akin to Skype (albeit with extremely high usage fees). However, the introduction of HomeWAV has been accompanied by the phasing out of in-person no-contact visits. When I asked my mom how she feels about switching to digital visitations, she said, “I like it. I can show R. the dogs.” True, my brother can now get a glimpse of the interior of our living spaces and meet the dachshunds my mom got after our family dogs died. Contraband cell phones (sometimes smuggled in by prison guards) are circulating more and more inside prisons, allowing inmates to engage in a range of activities from taking selfies to organizing national strikes.

However, what would happen if contact visits were completely phased out and supplanted by digital visits? Are all social relations undergoing a similar transformation? As the introduction of digital communication services enables some cash-strapped states to scale back or phase out visitation hours, the prospect of prisoners no longer having any embodied contact with people on the outside worries me. Although I always dreaded the experience of waiting to be processed by the corrections administration only to be able to talk to my brother from behind a piece of glass, the phenomenological experience of entering a space of absolute

non-freedom and social abjection makes the existence of prisons that much more real (rather than a fantasy *elsewhere*)—it even makes the task of abolishing prisons more morally urgent (and deeply felt).

Extension of the Carceral and the “Abolitionist” Society of Control

While the development of new communication technology has been a lucrative source of revenue for companies contracted by the state to provide services in prison, a question remains: Will prisons survive the government fiscal crises that are unfolding around the country? The promotion of the interests of prison guard unions, the companies that benefit from prison contracts, and stubborn law-and-order politicians will certainly extend the life of mass incarceration—but for how long? Since the 2008 financial crisis, states are becoming increasingly reluctant to bear the cost of housing prisoners. Many states across the country are facing impending budget crises that are exacerbated by the high cost of housing prisoners. One way to cut costs is to expand private prisons. According to Lichtenstein, in Florida, six of the eleven correctional facilities opened between 1995 and 2015 were operated by private corporations, putting Florida at the forefront of experiments that merge

private interests and punishment. However, the budgetary strain of prisons has also led some states to put decreasing the prison population on their agendas. Following Obama and the federal government, states that have begun to reduce their prison populations have mostly prioritized so-called non-violent, low-level drug offenders.

It is important to note that a decrease in the total number of people incarcerated does not necessarily mean that our society, on the whole, is becoming a less carceral one. As the War on Drugs loses legitimacy, attempts to decarcerate nonviolent drug offenders have sometimes been accompanied by an increase in punitivity for “violent” convicts, as it has become expedient for politicians to increase the length of prison sentences for “violent” offenses to compensate for the shortening of sentences for nonviolent offenses (the reformist emphasis on nonviolent offenders can actually bolster the penal system, which is why prison abolitionists resist the violent-nonviolent dichotomy and have focused on challenging the prison system as a whole). In some places we are also seeing a pivot toward private reentry programs, private probation services, parole, and other forms of custodianship that involve surveillance and monitoring. It is possible that as technologies of control are perfected, carcerality will bleed into society. In this case the distinction between the inside and

the outside of prison will become blurrier. It is even possible to imagine a future where the prison as a physical structure is superseded by total surveillance without physical confinement.

While writing this introduction, my hunch about the direction of our carceral society was confirmed by the cover story on a May 2017 issue of *The Economist*. GPS ankle bracelets, drug and alcohol monitoring bracelets, and other low-cost surveillance technologies have been proposed as a more progressive and humane alternative to physically housing prisoners. Quoting the New York University professor Mark Kleiman, the article notes that “Tagging can also be used as an alternative to locking up convicts—a ‘prison without walls.’”¹³ Although tagging and other surveillance technologies—which are already being used in many states—are usually discussed as an “everyone-wins” alternative (states save money, convicts have more freedoms), we may inadvertently be authorizing the birth of a more all-encompassing police state. It is possible that the surveillance technologies initially developed to use on prisoners—whether biometric identification technology or tracking devices—will one day be used on nearly everyone.

In chapter 2, an essay on municipal finance, I also argue that predatory police practices turn the space that is being policed into a carceral space.

Not only do these practices turn entire jurisdictions into zones marked for looting, they effectively limit the mobility of mostly black residents and “box” them in a myriad of ways. Algorithmic forms of power—and predictive policing in particular—do this as well. Whether it is a covert municipal financial structure that authorizes plunder or an algorithm that generates hot spots on a map, invisible forms of power are circulating all around us, circumscribing and sorting us into invisible cells that confine us sometimes without our knowing. Perhaps an invisible cell could be described as a carceral apparatus that does not control or confine populations by housing them in physical structures. It refers to the way that certain populations are constantly being categorized (put on algorithmically generated heat lists and watch lists), surveilled (think of Muslims in America even under Obama), demobilized (think of the residents of Ferguson, where hyper-policing made residents reluctant to leave their homes, as there was an average of three arrest warrants per household), targeted (think of how algorithms can identify poor people based on their internet searches and generate targeted ads for payday loans, for-profit colleges, and other scams), and managed (think of all the tiny ways our behavior is modified by invisible forces, such as the design of cities or monitoring by closed-circuit TV).

Algorithmic Policing and Predictive Analytics

With the explosion of data science and the increasing deployment of predictive policing software, we are now witnessing a transformation in the temporality of policing: policing is no longer primarily aimed at effectively responding to crime, but at *anticipating* and *preventing* it. This anticipatory element of policing has always been present, but until recently the judgment of the police officer was considered superior to that of machines. As self-learning AI systems are refined and our faith in machines and predictive analytics increases, we will relinquish more and more decision-making power to the algorithms. What are the chances a parolee will be a recidivist? Where should police patrol? Whom should the police be monitoring? Increasingly, these decisions are being made algorithmically, sometimes with software that analyzes police data to make such predictions.

While watching the documentary *Do Not Resist*—a film about the militarization of the police—I was struck by a comment made by Richard Berk, a predictive policing researcher and professor of criminology and statistics at the University of Pennsylvania, who said it would be possible to calculate the likelihood that someone will engage in criminal activity *before they are born*, presumably by analyzing family wealth and

support, place of residence, race, and socioeconomic factors. (He explicitly supports the use of race to make crime predictions.) This comment made me think about my own situation. My older brother is serving a forty-year prison sentence while I am a Ph.D. student at Harvard University. Statistically speaking, before being born, we'd have the same life outcome chances, but in actuality we occupy diametrically opposed positions in society: his being one of absolute social abjection (ward of the state), mine being one of high social prestige (on the path to receiving the highest educational degree at the richest school in the world). I offer this anecdote not as an underhanded endorsement of the myth of meritocracy, nor to support the notion of individual agency, but to draw attention to the impossibility of ever overcoming uncertainty and accurately predicting the future. Predictions are much more about constructing the future through the present management of subjects categorized as threats or risks. This is the point at which present tendencies in the credit economy overlap with the move toward predictive policing: in marking subjects as potential risks, they are actually produced as such. With the rise of risk-adjusted pricing, subjects who are targeted for subprime loans because they are in the high-risk pool (in that the creditor believes there is a high chance they will default on their loans) are tracked

into loans that are impossible to pay and essentially guarantee failure. Similarly, when inmates seek parole and are denied because they received a COMPAS score marking them as at risk for recidivism, they are preemptively assumed guilty and thus are treated as such.

Even the supposedly simple tasks of predicting the outcomes of high-stakes referendums and elections have proved difficult. In the year 2016 we saw a number of outcomes that smashed not only our personal expectations but also all mainstream public predictions. During the months leading up to the Brexit vote, the newspapers consistently reported that although it would be close, it seemed almost certain that the U.K. would vote to stay in the European Union. During the vote, while I was hitchhiking around Iceland, my cell phone would sporadically catch a Wi-Fi signal and the Guardian app on my phone would send me push notifications with updates about the vote. On the night of the vote, I was staying in a hostel in Skógar when my phone must have picked up the patchy Wi-Fi signal at the hostel, for I received a notification right before going to sleep that preliminary results showed that the U.K. likely voted to stay. In the morning I received another push notification: the U.K. voted to leave the European Union. For me the vote marked a crisis in the neoliberal world order,

which—prior to the election of Emmanuel Macron and the reelection of Angela Merkel—appeared to be unraveling before our eyes. It was the first major rupture in the psyche of liberals, who were not only privately counting on the world continuing as is, but also had data science on their side to back their methods. Then the public's expectations were overturned again when Theresa May, expecting to pick up many seats in Parliament, called for snap elections to be held on June 8, 2017. Despite predictions that the vote would be in her favor, her party ultimately lost seats, along with their parliamentary majority. The next day, investors contributed editorials to the financial press bemoaning that the predictions were wrong again, which left investors not only scrambling to adjust to the new political context, but also existentially panicked about the uncertainty of the future. Wolfgang Munchau, an associate editor at the *Financial Times*, wrote, "In a world of radical uncertainty, gambles become harder because the information on which they are based is less trustworthy." Munchau calls on investors to acknowledge that we live in radically uncertain times:

Radical uncertainty is a massive challenge, because you can never be sure of much. In particular, you can no longer be certain that you can

extrapolate the trends of the past into the future. Opinion polls are becoming less relevant (even if they were able to produce a correct snapshot of opinion at any one time). Even ultra-modern tools like social network analysis cannot break through into an unknown future. The usefulness of these tools is confined to explaining what went wrong in the past.¹⁴

After Brexit, a second major rupture that plunged the globe into uncertainty was the election of Donald Trump. Even with advanced predictive analytics, data analysis, opinion polls, exit polls, and other tools developed by political, social, and data scientists, the vast majority of the predictions of the outcome of the 2016 U.S. presidential election were wrong.¹⁵ Even on the night of the election, hours after ballot counting had commenced, the media unanimously reported that Hillary Clinton would win. For the early part of the night the *New York Times* forecast meter had Hillary Clinton with a strong lead, her chance of winning hovering around 85 percent for some time. But at 9:30 p.m. Clinton's chance of winning plummeted and Trump took the lead; henceforth, his chance of winning rose steadily into the night. But what was most bizarre about the election night predictions was the discrepancy between the reality of what was happening and what was being reported.

While monitoring the *New York Times* election forecast meter, I was also streaming news channels such as CBS. Even after the meter said there was a 90 to 95 percent chance that Trump would win, the newscasters were still declaring that Clinton would win. I knew something was awry when the pundits began to stutter and a liberal commentator announced on the air that she was going to have a "panic attack." Reality was violently forcing its way into the liberal imaginary, creating a tear in the fabric of their psychic universes. *No one predicted this.* But liberal Americans continued to deny that Trump would actually become president: *Maybe a recount will reveal the election was rigged? Maybe an investigation into Russian interference will nullify the results? Maybe we can petition to abolish the electoral college and declare Clinton the winner, since she carried the popular vote? Maybe he will be impeached before being sworn in? Maybe Joe Biden will assassinate him?* These were the many fantasies liberal Americans entertained in order to psychically ward off the catastrophe of the coming Trump presidency. *The crisis of Donald Trump is more than a crisis of governance; it is a crisis of uncertainty.*

Now, standing on the threshold of a new world, it is time to again ask: Will we ever be able to master the future? How far will our confidence carry us? Will we ever have the power to eradicate uncertainty? As it stands, our predictions tend to

predict what we already believe will happen (after all, algorithmic software is still designed by humans). After the election I read articles about Ada, the algorithmic tool Clinton used to guide her campaign. Apparently her sophisticated algorithmic software directed her *not* to campaign in Wisconsin and Michigan, even though Sanders won those states in the primaries. These states voted for Obama in recent elections. Statistically speaking, wouldn't they go blue again?

Perhaps you find it curious that I am belaboring this point about the impossibility of predicting the future. Who cares if the *New York Times* forecast meter was wrong about the election? My point is that we have become so confident in our power to predict that we are increasingly relying on predictive analytics to determine what we do in the present. Thus, a prediction of a crime boom can catalyze the construction of prisons and the passing of harsh sentencing laws. In the political realm, the conjuration of an imminent threat gives authority to the policies that are being implemented in the present. This is why law-and-order politicians often focus on juveniles: they embody collective anxieties about the future of society. Thus, predictions do much more than present us with a probable outcome, they *enact* the future.

The consequences of a single wrong prediction in areas where there are high stakes for people

should be enough for us to question our widespread reliance on them. A wrong “You may also like ...” product recommendation on Amazon is one thing, but a wrong prediction in the arenas of punishment, policing, and finance is quite another. *ProPublica* investigated the efficacy of the COMPAS algorithm, which is used by courts and parole boards to calculate the risk of recidivism. *ProPublica* analyzed the scores of more than ten thousand defendants in Broward County, Florida, and compared their risk scores with data about who had gone on to be arrested for crimes within two years. They found that “black defendants were twice as likely to be incorrectly labeled as higher risk than white defendants.”¹⁶ In a follow-up to the study, four separate research teams analyzed the algorithm and found that the “racial bias ... arises inevitably from the test’s design.”¹⁷ Journalists for *ProPublica* note that “Increasingly, criminal justice officials are using [...] risk prediction equations to inform their decisions about bail, sentencing and early release. The researchers found that the formula, and others like it, have been written in a way that guarantees black defendants will be inaccurately identified as future criminals more often than their white counterparts.”¹⁸ However, Northpointe—the company that sells COMPAS—claims to be

race-neutral. Indeed, many companies involved in the business of selling predictive products to courts and police departments claim in their advertisements that their products will be more egalitarian because they remove human bias and thus will not be racist in their predictions (unlike a judge, a cop, or a parole board consisting of individuals who might unconsciously or consciously be racially biased). But why exactly are these supposedly race-neutral algorithms racist in their predictions? The answer to this question is complicated. I recommend reading *ProPublica's* findings and Cathy O'Neil's book on algorithms and inequality—*Weapons of Math Destruction: How Big Data Increases Inequality and Threatens Democracy*—for a nuanced technical answer. To summarize O'Neil's argument, she writes in her book that one reason why algorithms are sometimes racially biased is that some of the factors taken into consideration by these algorithms are proxies for race even when they are not explicitly racialized (such as neighborhood). Furthermore, predictive tools often enshrine bias because they use datasets that are themselves tarnished by racial bias.

As time passes, algorithmic power is being consolidated. Yet how are we to test the efficacy of an algorithm and hold the designers of these algorithms accountable when the algorithms themselves

are often proprietary and not open to scrutiny? Even when it's not legible, the ideology of a society will be encoded into its algorithms. An unequal and racist society will use algorithms to preserve inequality and protect the status quo. Rather than demanding wiser and more accurate algorithms (which is where O'Neil sometimes lands in her analysis), we need to dismantle our fetishization of predictive analytics and challenge forms of power that invoke the future to authorize the present state of affairs. This is what I argue in my essay "This Is a Story About Nerds and Cops" (chapter 4), an essay I wrote in 2014 that analyzes the invisibilized dimensions of policing. The essay focuses on the technological side of law enforcement and the rise of predictive police practices. It critiques the idea that predictive policing is "race-neutral" and argues that "police science" is a way for police departments to rebrand themselves in the face of a crisis of legitimacy. Since writing the essay, techno-policing reached another milestone when the Dallas Police Department's SWAT team used a robot to kill sniper Micah Xavier Johnson in 2016, marking the first lethal use of a robot by police. When contemplating the rise of algorithmic and robotic policing, we need to attend to the question: How will cybernetic and robotic repression alter the terrain of political resistance?

Algorithmic Power

Politics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of spaces and the possibilities of time.

—Jacques Rancière, “The Distribution of the Sensible”¹⁹

With the ascendency of algorithmic power in the Age of Big Data we are presented with a number of problems that are at once political and aesthetic: If what we can perceive with our senses delimits what is politically possible, then how do we make legible forms of power that are invisible? How can we imagine ourselves out of a box that we don’t even know we’re stuck inside? Like a character in a Franz Kafka story, we are called into presence, managed, confined, and punished by an authority that we struggle to locate or identify, and every time we embark on a quest for answers, there is just infinite deferral and postponement.

A job applicant might wonder, Why was my application rejected?

Because a private company gave you an e-score that indicates you are not credible.

Why was I given this score? What data was used to make such calculation?

We cannot tell you. We do not know.

Then how the fuck can I get out of the invisible box that hems me in?

These new forms of power create the illusion of freedom and flexibility while actually being more totalizing in their diffuseness. When power operates through automated and self-regulating circuits, the removal of the subjective element makes it all the more difficult to conceptualize or challenge. Yet it is worth restating that when it comes to policing, soft power (algorithmic policing) has not replaced hard power (militarized policing). Today, in the early days of the Trump presidency, we are seeing a resurgence of sovereign power, which is epitomized by the onslaught of executive orders issued by Trump in the first week of his presidency. With the rise of neofascism around the globe, we see the simultaneous existence of sovereign power and techno-governance. The relationship between Trump and Silicon Valley is representative of the deeply ambivalent relationship between these forces—between old and new forms of power. In rhetoric, Trump has shown a preference for an old-school model of economic growth centered on reviving manufacturing in the U.S., implementing protectionist trade policies, and reinvigorating extractive industries such as coal and oil. Temporally, the national agenda has pivoted away from the future and toward the past, which is also epitomized by Trump’s campaign slogan

“make America great … again.” Yet Silicon Valley and the tech industry know that the only thing that stands between massive infrastructural changes such as drone shipping and self-driving cars is the passing of government legislation that will enable the implementation of these new technologies. For this reason—though Silicon Valley has at times been at war with the U.S. government—some tech heavyweights, such as Elon Musk, have attempted to court the Trump administration, while others have condemned it. Travis Kalanick, the (now former) CEO of Uber, briefly joined Trump’s economic advisory council only to step down after a boycott of Uber caused the company to suffer a significant loss of revenue. Recently, 160 biotech companies signed a letter criticizing Trump’s executive order banning travel from seven predominantly Muslim countries. The ban has been particularly injurious to the biotech industry, which is heavily dependent on the labor of highly skilled foreign-born researchers and workers.

Even if Trump decides to act against the interests of the tech industry, he will ultimately be unable to prevent what some are calling the “second industrial revolution” and the “second machine age.” Mass automation is on the horizon, and this raises a number of questions about the future of the economy and our role in it. In December 2016

Amazon shipped its first package by drone, and self-driving cars are still on the roads in California despite a court injunction to ban them. Under Obama we saw a major shift in American warfare abroad, from ground warfare to drone warfare. The British military is developing laser guns and cannons that can shoot down the drones that are increasingly being used in warfare. Technological innovation is rapidly restructuring the economy, social relations, governance, culture, and warfare.

All of this is to say that a vast number of humans—whether they are laborers or soldiers—may become superfluous, though we may still be needed (for now at least) as *users* and *consumers*. However, the futurist Jerry Kaplan challenges the idea that humans are even necessary to keep around as consumers:

When the growth rate of luxury goods consistently exceeds the growth rate for all retail sales, it doesn’t take long for it to account for a large proportion of total spending. According to Mark Zandi, chief economist of Moody’s Analytics, the top 5 percent of income earners account for about one-third of all spending, and the top 20 percent account for close to 60 percent of spending. It’s quite plausible that, within the next decade, the wealthiest 5 percent could generate more than half of retail spending in

the United States. That would be a thriving economy driven not by the mythical middle class but rather by an ever-concentrating cadre of the elite.²⁰

What will happen when new surplus populations are created and humans are no longer needed for production or consumption? As the U.S. deindustrialized and the welfare state was gutted (a process that started in the 1970s), the solution to the problem of what to do with the unemployed people who had migrated to cities to become industrial workers—as well as the mentally ill people housed in hospitals that were shutting down en masse—was *racialized mass incarceration*. Already, in the 1960s and '70s, black intellectuals associated with the Black Panther Party were theorizing these processes.

The Black Panther Party, Lumpenization and Automation

In contemporary discussions of automation, there is rarely any acknowledgment of black Marxist theorizations of automation, such as those produced by the Black Panther Party (BPP). The BPP was not only a revolutionary political organization, it was a political movement that produced many significant contributions to black political

thought. Before the Black Panthers, few thinkers beyond Malcolm X had undertaken the daunting endeavor of both organizing the lumpenproletariat into a political organization and theorizing how and why the lumpen could be included in a revolutionary struggle. The BPP was also singular insofar as many of its leaders and theoreticians—such as George Jackson, Huey P. Newton, and Eldridge Cleaver—were former hustlers and members of the same class they were theorizing.

BPP theorizations of the lumpenproletariat are somewhat distinct from traditional Marxist conceptions of the lumpen. In the Marxist view, unemployed people (the lumpen class) are essentially workers without work: a labor reserve that is necessary to keep wages down and weaken the power of labor unions. However, historically, they have not been considered a revolutionary class in themselves by Marxists because they do not control the means of production and are notoriously difficult to organize, as there are few social, political, and material forces that bind them to one another. For instance, factory workers are considered organizable because they share material interests (similar working conditions and a shared opposition to their bosses) as well as a physical space through which they can develop a working-class consciousness and coordinate their actions. The lumpen class, on the other hand, is an aggregate