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RIVERSIDE

Speculative Actuaries of Law: Criminalization of Hate in Los Angeles (1984 – 2014)

A Dissertation submitted in partial satisfaction  
of the requirements for the degree of

Doctor of Philosophy

in

Ethnic Studies

by

Jen-you Hwang

June 2017

Dissertation Committee:

Dr. Dylan Rodriguez, Chairperson

Dr. Christina Hanhardt

Dr. Jodi Kim

Dr. Fred Moten

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2017

The Dissertation of Jen-you Hwang is approved:

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Dr. Dylan Rodriguez, Chairperson

University of California, Riverside

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and the carceral state; without them, I am not sure what kind of sense my project would make to myself or others. To Jodi Kim, thank you for your showing me the meaning of effortless generosity in time, advice and mentorship over the last six years. Thank you for your unapologetic insistence on an intersectional, feminist and critical ethnic studies and Asian American studies and for offering that training to so many of us. Thank you to Christina Hanhardt, for not only modeling a kind of queer abolitionist praxis on engaging the topics of violence within your work of *Safe Spaces*, but also for your organized dedication and magnanimous spirit. Thank you Fred Moten for modeling your sincere love of dialogue and critical collaborative study, particularly your insistence on Black life and Blackness *as* the possibility of life. Your words and work will continue to inflect the horizon in which I move through the world.

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## **To our ghosts**

May our collective words and breath be.

as bold as they are tender.

both carried by.

and dedicated to.

those whose time here has been too short...

## ABSTRACT OF THE DISSERTATION

Speculative Actuaries of Law: Criminalization of “Hate” in Los Angeles (1984 – 2014)

by

Jen-you Hwang

Doctor of Philosophy, Graduate Program in Ethnic Studies  
University of California, Riverside, June 2017  
Dr. Dylan Rodriguez, Chairperson

Speculative Actuaries of Law: Criminalization of “Hate” in Los Angeles (1984-2014) argues that Los Angeles County (LAC) is a quintessential site for understanding the technological development of U.S. anti-hate crime activism on a local to transnational scale. Since the 1984 approval of Senate Bill 2080, California and LAC have modeled the collection and aggregation of hate crimes data for the U.S. and international democratic counterparts. I argue that in the span of thirty years, this legislation, in tandem with the material expansion of Los Angeles Police Department (LAPD), worked to dictate the priorities for LGBTQ, immigrant and antiviolence community organizations, particularly those identifying as queer, transgender, gender nonconforming of color. The pressure to cooperate with local law enforcement for LGBTQ of color and immigrants reinforces compulsory logics of proper respectable sexual citizenship, particularly in cases pursuant to reporting hate crimes, revealing immigration status or obtaining amnesty. As an interdisciplinary research project, this project combines a legal history and cultural analysis of legislation, policy recommendation reports and pilot programs of what we now call hate crimes. Through examining Southern California antiviolence community

organizational efforts towards ‘community-partnerships’ towards justice, this project concludes with a collaborative ethnographic and participatory roundtable by stakeholders in community. In collaboration with thirty-five queer and trans\* people of color community advocates, service providers and organizers, these dynamic polyvocal roundtables illustrate the breadth of community voices and invaluable first-hand experiences that strongly distinguish “safety” outside of law-enforcing state agencies. These roundtables significantly reveal, as indexed by the National Coalition of Anti-violence Program annual report (2014), “LGBTQ & HIV-Affected Hate Violence,” that trans\* women of color are both most likely to experience and least likely to report hate violence due to previous encounters of law enforcement hostility. Overall, this research project seeks to both 1) denaturalize U.S. settler-colonial and binary logics of “deserving/undeserving”, “victim/perpetrator” and “human/nonhuman” that resound on a local to transnational scale, and 2) spotlight transformative justice initiatives being made most possible for and by trans\* and queer of color queer community.

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## **ABBREVIATIONS**

AAAJ – Asian Americans Advancing Justice (Los Angeles)  
AVP – Anti-Violence Project (NYC)  
ACLU – American Civil Liberties Union  
ADL- Anti-Defamation League  
AG CRC- Attorney General Civil Rights Commission  
BLM- Black Lives Matter  
CAPA – Coalition Against Police Abuse  
CDCR- California Department of Corrections and Rehabilitation  
CJS- Criminal Justice System  
DFEH- Department of Fair Employment and Housing  
DPN- Dignity and Power Now (Los Angeles)  
DOJ- Department of Justice  
GJLA- Gender Justice Los Angeles  
HCSA- Hate Crimes Statistics Act (1990)  
HRC- Human Rights Commission  
IBR- Incident-Based Reporting  
LAC- Los Angeles County  
LAGLC- Los Angeles Gay and Lesbian Center  
LAPD – Los Angeles Police Department  
LAPC – Los Angeles Police Commission  
LASD- Los Angeles Sheriffs Department  
LGBT- Lesbian, Gay, Bisexual Transgender  
MCJ- Men’s Central Jail (Los Angeles County)  
NCAVP- National Coalition of Anti-Violence Programs  
NIBRS- National Incident-Based Reporting System  
QTPoC- Queer Trans\* People of Color  
QTBIPoC- Queer Trans\* Black Indigenous People of Color  
RERC- Racial Ethnic Religious Crimes  
RJ- Restorative Justice  
ToC- Trans\* of Color  
TWoC- Trans\* Women of Color  
TJ-Transformative Justice  
TLC- TransLatin@ Coalition  
VAWA- Violence Against Women Act  
VCCLEA- Violence Crime Control and Law Enforcement Act



## **INTRODUCTION: Triumphant Speculation of Idol/Idle and 1984 Pre-Hate Crimes**

*Los Angeles is boundless, it's a place that's a reflection of what the world looks like today and what America will look like tomorrow.*

--Mayor Eric Garcetti in LA24.org

Featured on the opening home page of the Los Angeles 2024 Olympic bid website is a sleek yet subdued two-and-a-half minute cinéma vérité-style video painting a culturally diverse, highly curated profile of Los Angeles' active intergenerational go-getters and hopeful Olympians of the past and present. With opening moving panoramic shots of classic Los Angeles landscapes, the video pans across the Santa Monica Mountains in the early morning, transitioning, almost as turning east, to a citywide view of the downtown Los Angeles cityscape clustered with its infamous skyscrapers in the distance.<sup>1</sup> Light trickles in, to a subdued piano melody, layered with the ambient sounds of birds and quiet bustle before a city wakes. The slowly scrawling question appears in white font: "WHERE WILL YOU BE IN 2024?" A projection of seven years forward from its release in 2017, the video offers indirect profile shots jumping to a number of "authentic Angelinos" ruminating over the very question of 2024. In a montage of a motley of characters ranging in ethnicities, ages, locations and social identities, the video seeks to paint a colorful Los Angeles. Interwoven with intimate portraits and sound-bite conversations, the thread throughout features a feeling of intimacy, of belonging, anticipation for a nostalgic 2024 Los Angeles. Shot from a high-definition video camera, maybe a personal iPhone, Kobe Bryant appears, musing on the question from a chair, an

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<sup>1</sup> "Where will you be in 2024," Los Angeles Candidate City Olympic Games 2024, accessed May 25, 2017, <https://la24.org>.

out of focus trophy room in the back. Korean American chef Roy Choi ruminates outdoor, with telephone wires and a tiny rippling American flag in the distance. Multi-talented beatboxing comedian Reggie Watts self-amusingly replies to the question, “Doing some pretty weird stuff...” In an action shot down a long corridor, Mayor Eric Garcetti, clad in full grey suit and tie, kicks a soccer ball through City Hall. Cutting to a backlit portrait shot, Garcetti confidently answers: “In 2024, I will be right here, in the City of Angels, watching the Olympics.” Last of the opening vignettes features Jessica Alba, an actress and businesswoman, against a playful loft space, with her arms literally opening as she states, “I’m going to be welcoming people to the city I love.” The video continues with a medley of seemingly unscripted candid replies from a range of active Los Angeles athletes and personalities, from skateboarders, surfers, musicians, comedians, as well as Olympic medalists Janet Evans, Greg Louganis, and many impressive action shots of young diverse athletes, including a young Paralympic running hopeful.<sup>2</sup> The video literally endeavors towards the future successful 2024 Olympic bid. As if a promise to the young, driven athletes featured in the video, the future of Los Angeles leaves no room for quitters or the indolent. Los Angeles, although often registered as a place synonymous with “sun,” “fun” and “play,” in this video however, to succeed is to sacrifice, work hard, and play hard.

Los Angeles 2024 Summer Games would be forty years following what is considered one of the most successful Olympic games in history, Los Angeles 1984 Summer Games. In 1984, Los Angeles hosted the Summer Olympics (XXIII) for a

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<sup>2</sup> The 2024 Olympics, as well as since 2001, has integrated the Paralympics alongside Olympic International Committee (OIC), summer and winter Olympics. The featured young runner is Ezra Frech.

second time, nearly fifty years following the 1932 games (X), considered the last profitable game worldwide prior to record-breaking 1984. The established LA84 Olympic Committee used nearly half of this sum towards ensuring improved athletic facilities across Los Angeles, what is considered a revolving asset to the 2024 bid as new constructions would be minimized. Los Angeles is considered by many as one of the last US cities who could successfully host without causing a major deficit for the city.

1984 also marked the year of former California governor (1967-1975), actor and SAG union organizer, Ronald Regan's presidential reelection—the largest electoral landslide victory in history to date. Regan would open the 1984 Los Angeles summer games, the same honor that would be granted Trump if still in office in 2024.

In the early 1980s Western imperial foreign policy and state-militarization twin era of “Reagonomics” and “Thatcherism” would introduce massive cuts to public infrastructure and basic public welfare and social goods in favor for expanded military and policing regimes and technologies. Los Angeles 1984 thus would come to signify both the construction of local-global liberal multiculturalism through an “anti-communist”, neoliberal, anti-welfare economic paradigm. Los Angeles would enter the global stage showcasing militarized anti-terrorist policing and surveillance as necessary and central to the security of “diversity”—racial capitalism incarnate.

The Los Angeles Times reported that one of the chief concerns of a new coalitional organization in opposition to LA2024, “NOlympics LA” is that the “Games could lead to militaristic police practices as law enforcement makes sure Los Angeles

shows its best face to the world.”<sup>3</sup> Over the course of planning intelligence gathering, security and policing for the Los Angeles 1984 Olympic Summer Games, one of the longstanding disputes would be between the Los Angeles Police Department (LAPD) and the F.B.I. concerning whose paramilitary agency would be more equipped to oversee security in Los Angeles, and particularly in response to terrorist threats such as kidnapping of foreign athletes. In the end, both agencies would compromise in partnering together, although Los Angeles Police Chief Daryl F. Gates is quoted as stating LAPD would "handle everything we can handle" and only call upon the F.B.I. if utterly necessary.<sup>4</sup>

As a response to the US-led boycotts of the 1980 Moscow Olympics resulting from the Soviet invasion of Afghanistan (Soviet-Afghan War), fourteen Eastern-Bloc nations boycotted the 1984 Los Angeles games through declined invitation to attend and compete. In that same year, Regan also declared the Strategic Defense Initiative (SDI) and Organization (SDIO), an anti-ballistic and anti-Soviet Union technologically supercomputer and X-Ray laser program. The Los Angeles 1984 Olympics marked an era of anti-Soviet American capitalist freedom as the promise of a white liberal multicultural mode of policing and transnational state security. From this very cold war context, the very development of hate crimes discourse would become a welcome component in ushering in multicultural ‘safety’ as state securitized policing.

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<sup>3</sup> Adam Nagourney, “Los Angeles Is All In for the 2024 Olympics,” The New York Times, May 12, 2017, accessed May 22, 2017, [https://www.nytimes.com/2017/05/12/us/olympics-los-angeles-2024.html?\\_r=0](https://www.nytimes.com/2017/05/12/us/olympics-los-angeles-2024.html?_r=0).

<sup>4</sup> Lindsey, Robert, “The Olympics: Los Angeles ’84; Security is Called Largest in Peacetime,” New York Times, July 26, 1984.

In the words of George Orwell from the novel 1984, written three decades prior in 1949, “War is peace. Freedom is slavery. Ignorance is strength.” This futurity of thirty years forward (from 1949 to 1984), has us consider the three-decade benchmark of now 1984 to 2014, and forty years by 2024. This projection of progress in diversification of bodily and technological productivity is a narrative of Los Angeles’ diverse exceptionalism woven alongside a much lesser known encapsulated cultural history of the development of hate crimes as piloted strongly on the premise of a tolerant, free, and well-serviced, well-protected Los Angeles.

Progressive politics of the 1980s deepened relationships between those from a variety of minority backgrounds, and, in February 1984, Senator Diane Watson introduced Senate Bill 2080 (SB 2080) to specifically direct the Attorney General to develop a program model to “collect, compile, and analyze information about racial, ethnic, and religious crimes, and to submit a report to the Legislature on January 1, 1986.” As the first state-mandated bill that directed state-level programmatic development of race/ethnicity and religious bias crimes, SB 2080 was approved to gather hate-crime data, directing the attorney general to commence a one-year pilot program for data collection and analysis.<sup>5</sup> In January 1986, a report titled, “Racial Ethnic Religious Crimes Project: Preliminary Steps to Establish Statewide Collection Of Data,” or RERC, was published, and the California Department of Justice (DOJ) continued its efforts onward to implement this inter-agency, intra-state program. Los Angeles led way in modeling this strong multi-agency participation. In 1994, ten years after enactment of the

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<sup>5</sup> SB 2080 (Chapter 1482, Statutes of 1984) and the following legislation SB 202 (Chapter 1172, Statutes of 1989) were submitted to make permanent the program, available funding permitted.

California SB 2080, California implemented the Attorney General’s Hate Crime Reporting Program, unifying and empowering law enforcement agencies across the state to document and report all hate crimes.<sup>6</sup>

In the following decades, Los Angeles County (LAC) has developed agencies such as the Anti-Hate Violence Project, the Hate Crime Suppression Units, the local police and sheriff Hate Crime Task Forces, and victim-assistance programs and anti-violence community collaborations through the county’s Human Relations Commission. LAC became a premier testing ground for pilot projects that became ongoing institutions, materializing collaborations between non-governmental, social service, nonprofit, and government sectors. However, LAC still remains under-researched as a critical site of anti-discrimination law, anti-violence policy, and community collaborations, though it continues to experience civil unrest at both major and local historical junctures.<sup>7</sup> Over the last three decades, principles and interventions of restorative justice continue to transform the criminal justice system in order to address such unrest and dissatisfaction. The 1986 piloted program under the Department of Justice (DOJ) sought to assess and manage risk of violent minority-targeted crimes through policy implementation, law enforcement

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<sup>6</sup> “The Attorney General’s Hate Crime Reporting Program was implemented in September 1994. In 1995, the first publication, *Hate Crime in California*, July through December, 1994, was published. This eighth annual publication, and seventh full year report, *Hate Crime in California*, 2001, includes data for January 1 through December 31, 2001. This year, for the first time, this report provides trend data.”

See Bill Lockyer, “Hate Crimes in California 2001” (State of California Department of Justice, Criminal Justice Statistics Center, Sacramento, CA, 2001), accessed March 20, 2015, <http://ag.ca.gov/cjsc/publications/hatecrimes/hc01/preface.pdf>.

The year 1995 would be the first year that such statewide data was available. Daniel E. Lungren, “Hate Crime in California 1995” (State of California Department of Justice), accessed May 5, 2015, <https://oag.ca.gov/cjsc/publications/hatecrimes/hc1995>.

<sup>7</sup> The Watts Riots of August 11<sup>th</sup> -17<sup>th</sup> 1965, The 1992 LA Riots of April 29<sup>th</sup> to May 4<sup>th</sup>, 1992.

Most recently, similar civil unrest resulting from police-related deaths of Ezell Ford (August 11, 2014), Charly “Africa” Leundeu Keunang on March 1, 2015 and Brendon Glenn (May 5<sup>th</sup>, 2015). All Black men, transient or homeless, with mental health or addiction issues.

programming/training, and brokering of “community partnerships.” Around the same time, stemming from a 1982 ACLU lawsuit brought upon the Los Angeles Metropolitan County jail on behalf of homosexual inmates due to threat of sexual/physical violence by “predatory inmates,” Los Angeles County established K11 (now K6G), the first and only gay and transgender women’s official jailing unit in the Los Angeles Police Department/Sheriff’s Department. Jailing units like K6G are nationally and globally known as critical LGBT-sensitive reform in training and selective carceral segregation—all while simultaneously both neglecting and exacerbating systemic issues of racism, poverty, and the criminalization of mental health.

Under the tenure of the Bill Clinton administration, the 1994 Violence Against Women’s Act (VAWA) under the Violent Crime and Law Enforcement Act (VCCLEA) stands as the largest crime bill in the history of the United States, creating institutions such as Community Oriented Policing Services (COPS) as an attempt to reduce crime through what is termed “community policing.” In 2001, California led in the most participating agencies, with Los Angeles at the top of the list of counties with the most participating agencies submitting crime reports. The Attorney General Commission on Racial, Ethnic, Religious and Minority Violence later states in its recommendations:

The creation of effective partnerships between local government, community organizations and law enforcement agencies will increase accuracy in the identification and reporting of hate crimes. Community-based organizations assist people who may be hesitant to report hate crimes to the police. In turn, law enforcement agencies can work with these organizations to build trust with persons who may otherwise be reluctant to contact them.

A consequence of the civil rights act in 1964 (where race, color, ethnicity and religion, sex became the quadrant foundation for anti-discrimination laws that followed), how do

then minority protective community-oriented projects like hate crimes actually reduce the power of communities to participate in survivor-centered responses to interpersonal (street-based/domestic) to state (law enforcement/military/institutional) violence?<sup>8</sup> Lastly, how do such daily and historical forms of violence, both in irregular documentation, continue to exceed the promise of protection via state intervention, when in fact persons and community are already targeted as criminalizable (sex worker, formerly incarcerated, undocumented, homeless, working in the survival economies, etc.)? This research attempts to offer counter-narratives to a “perfectly progressive” Los Angeles, underlining the ways in which state intervention, safety, and security are no longer viewed as mere advancing institutions, agencies and partnerships. I contend that community liaison partnerships must center accountability, oversight, community integration, and education as a process of technological human development.

As of May 2017, headlines such as, “Hate crimes surge since Trump’s inauguration” make their rounds to various news outlets. In New York City, such narrative is framed as the rise of anti-Semitism, but in Los Angeles, it is framed as the rise of reported crimes targeting LGBT peoples. Other articles note the rise in violence targeting those read as Muslims. The assumption imbedded in these “rise of crimes” is that in sum, the total rising number should cause some form of alarm. I could not have imagined that the issues of hate crimes would be front and center in a newly reoriented way. As the era of Trump and post-Obama has ushered in a new level of perversion of hate crimes—although hate crimes itself neither ever historically distinguishing the role

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<sup>8</sup> This development continued alongside the establishment of the civil rights act of 1964 as the foundation for anti-discrimination laws on the basis of race, color, ethnicity, religion, and sex.



of state/historic white supremacist/settler colonial power—current legislation such as Blue Lives Matter Hate Crimes Bill of Louisiana has now further exceptionalized “police officers” as their own protected class against hate violence, as a class of persons—even while 37 states, including Louisiana, already have sentencing and prosecutorial enhancements for assault on police officers. Meanwhile, hate crimes legislation has never sought to protect one based on targeted violence due to poverty or those who historically and continually been targeted by law enforcement, or those at the multiple intersections of violence. Rather than positing an either/or question of turning towards or against hate crimes, how might emphasizing the conditional relationship of being forced to seek out recognition/legal forms of “protection” through the reporting hate crimes usher in more exact questions and strategies for addressing anti-violence beyond law, order, and the criminal justice system? Furthermore, how can we accomplish such goals while paying particular attention to both the entrapments and co-dependence and seduction of the criminal justice (punishment) system?

In order to distinguish both the injustices and fictive narrative arch of crime data against the value of experiential knowledge and community testimonials, this research will consider the distinction and performances of, respectively, objectivity and “un-generalizable/un-disciplined knowledge.” In other words, it seeks to further distinguish why the contradictions of both seeking and being inducted into criminal justice reform continues to be part of even queer and trans\* of color communities. In summary, this research project argues that the deathly connections between interpersonal, structural, and state violence will remain unaccounted for so long as anti-violence solutions continue to

be defined by reformations of the criminal justice system.

### **Genocide, Abolition to Asian-American Civil Rights**

In the summer of 1982, Vincent Jen Chin, a twenty-seven year old Chinese American cisgender man, was beaten to near death in the early morning following his bachelor's party outside of a McDonalds in Highland Park, Michigan, a suburb seven miles outside of Detroit. For over three decades, the case of Vincent Chin would be referred to as the most signifying historical milestone, a cause célèbre, energizing an Asian American movement of civil rights leadership and coalitions to address targeted minority violence against Asians in America—an analysis that too often excised questions of sexual, domestic, or gendered violence. Ronald Ebens, a white Detroit Chrysler plant superintendent and his step-nephew Michael Nitz beat Chin into a coma. Chin would pass away four days following this horrid June 19<sup>th</sup> evening.

The date of June 19<sup>th</sup>, also known as the portmanteau of Juneteenth, celebrates the historic day in 1865, when Major General Gordon Granger and Union soldiers landed in Galveston, Texas, declared the abolition of slavery in Texas, and following throughout the Confederate South. Granger in reading his General Orders, No. 3 states:

The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection therefore existing between them becomes that between employer and free laborer.<sup>9</sup>

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<sup>9</sup> “FROM TEXAS; Important Orders by General Granger. Surrender of Senator Johnson of Arkansas. A SOATTERING OF REBEL OFFICIALS,” The New York Times, July 7, 1865, accessed May 14, 2017, <http://www.nytimes.com/1865/07/07/news/texas-important-orders-general-granger-surrender-senator-johnson-arkansas.html>.

Over a century later in 1980, Texas would be the first state to establish Juneteenth as an official state holiday. Although historically recalled as a moment of triumphant progress away from confederate pro-slavery nationalism, the General Order No. 3 continues:

The freedmen are advised to remain quietly at their present homes, and work for wages. They are informed that they will not be allowed to collect at military posts, and that they will not be supported in idleness either there or elsewhere.<sup>10</sup>

This very sentiment of the good, respectable, hardworking racialized laborer, one in which “idleness either there or elsewhere” would be not tolerated, is in fact core to the construction of a genocidal anti-black liberal democratic freedom—the becoming of a proper freedmen, non-enemy of the “human race.” Granger continues in General Order No. 4 reciting:

All lawless persons committing acts of violence, such as banditti, guerrillas, jayhawkers, horse thieves, &c., &c., are hereby declared outlaws and enemies of the human race, and will be dealt with accordingly.<sup>11</sup>

Such predated orders, although from the Union “Free” North, still shared great overlap with the Postbellum South’s proceeding era of Black Codes, a precursor to Jim Crow Laws, which explicitly sought to control black “idle” life into either low-wage labor or criminality, akin to Columbus’ mission to set voyage to convert all “idolators” in the New World. This variety of freedom intended to curb the anticipated threat and prefigured effigies of the black criminal, the idle, the vagrant, the guerrilla, the savage, the idolator and, correspondingly, the alien and the foreigner—all figures that assumed certain gradient archetypes of racialized masculinity. The black laboring and pre-criminal

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

body continues past Juneteenth to be a site for reproducing white settler wealth and racial capital accumulation, one in which the literal womb of black women were both object and objected to, yet birthing predisposed agents of criminality—of and interrupting colonial forms of subjectivity.

Juneteenth was also a moment of proclamation for the transportation of cotton, procured via the violently free and coerced plantation labor, was to be surrendered to the Quartermasters General Corp who would then ship off to either New Orleans or New York to be sold via a US Purchasing Agents. These orders were primarily meant to cease the export of cotton, the primary exported good from the US and Southern Confederate States, and to immobilize the economic dominance of King Cotton, a transference of wealth and power to the north. The General Order, No.5 of June 19<sup>th</sup> 1865 reads:

GENERAL ORDERS, No. 5. —Until the arrival of the proper Treasury agents in this district all cotton may be turned into the Quartermaster's Department for shipment to New-Orleans or New-York, there to be sold to the United States Purchasing Agents. In case of such consignments, bills of lading will be given, and the owner will be permitted to accompany his property for the purpose of effecting its sale to the purchasing agents. No cotton, or other products of insurrectionary States, can be shipped on other conditions.<sup>12</sup>

Two decades following this historic moment, in which emancipation was extended project of controlling the production of agricultural goods, ushering in the growth of US corn market, the United States would begin domestically industrializing the production and marketing of automobiles, introducing the standardization of mass production and production lines. *The Economic World* newspaper of 1922 states:

It has long been known to the cotton trade that the American automobile industry consumes very large quantities of cotton cloths of different kinds, and is this

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<sup>12</sup> Ibid.

indirectly one of the most important of all consumers of cotton. For one thing, an enormous yardage of cotton fabric is required for the manufacture of automobile tires, this fabric for the older types of tires having to be made of long-fibered cotton of the most expensive kind. [...] the tops, sides and cushions of both passenger cars and trucks run on the very higher figures than are attained by the tires. [...] Accordingly when the automobile industry is turning out cars at the rate of recent months, its demands for cotton cloth are an extremely important factor in the markets both for cotton goods and for raw cotton.<sup>13</sup>

Since the cessation of plantation slave labor, the price of cotton became unfavorable for export to cooperating imperial countries like Great Britain, France, and Japan. The transition from the industrialization from cotton to automobiles supported the new twentieth-century post-plantation slavery supply and demand of both cotton and automobiles. As the automobile industry became one of the largest domestic consumers of cotton, it was still not until many decades later, primarily post-World War II, would the racial integration of black workers, primarily cisgender men, into the new big industry of automobile plants become reality. Supported by interracial trade unions, black workers, although being integrated into the mainstream workforce at a low percentage and often subjected to mistreatment, were still considered newly protected subjects. Such transitions from cotton to automobiles offer us a parallel between pro-slavery confederacy to forms of liberal democratic anti-discrimination—from explicit anti-black plantation slavery to civil rights via automobile industry.

The charting and enshrining settler-colonial national exceptionalism through law—that which determines the trajectory of personhoods between the criminal and the citizen—has been a project since Columbus set sail to Turtle Island. Sylvia Wynter

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<sup>13</sup> “Reported Heavy Demand for Cotton Cloth by the Automobile Industry,” *The Economic World* 110 (1922): 679.

describes this exceptionalization project as rooted in the “Janus-faced effects of 1492” or a “techno-triumphalist interpretation of 1492.”<sup>14</sup> That is to say, the (con)quest to establish new laws for the “technologizing of human behaviors” works to map and construct the elasticity of race to fit bio-evolutionary ideological claims that in the end rationalizes the subjugation of indigenous and black peoples. In agreement with Wynter, this research argues that the industrialization of hate crime data produces law as a speculative project seeking to manage human behavior and social risk—one that inures categories of race, gender, sexuality and ability and is assembled as a technological science of white supremacist bio-evolutionary ingenuity.

From settler land claims to common law, the codification and arrangement of law to this day continues to corroborate the perpetual innocence of the state against otherwise speculated state enemies.<sup>15</sup> The Union North declared the Confederate South to be an enemy of the state, and similarly any abettors, outlaws, or those who did not assimilate into the program of the national body. The new US citizen proper, ensconced in the free and innocent newly-born postbellum democracy, scorned the primordial sins of a country built on genocidal conquest and chattel slavery, somehow became slowly expunged in these moments of anti-slavery declaration. This research asks us to consider how the development of record keeping of crime data began since the dawn of colonization. Christopher Columbus, in his own unabashed colonial diaries and letters of conquest and genocide, attests to what he considers crimes against civilized race by way of “savage

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<sup>14</sup> Sylvia Wynter, “Columbus, the Ocean Blue, and Fables That Stir the Mind: To Reinvent the Study of Letters,” in *Poetics of the Americas: Race, Founding, Textuality*, ed. Bainard Cowan and Jefferson Humphries (Baton Rouge, LA: Louisiana State University Press, 1997), 149, 154.

<sup>15</sup> *Ibid.*, 149.

natives.” However, in retrospect, if one were to even apply what we understand now legally as hate crimes to history, there would be no end in sight of victim restitution, reparations, and compensation. The documented history of gendered and sexual violence has always remained a racialized anti-black and anti-indigenous project of white settler colonial conquest. That is to say, the technological (de)formations of racial categories, which already lodge the often veiled axes of gender, sexuality, and (dis)ability, continue to levy competitive categorizations of injury for all non-white people of color.

Although targeted as Japanese, Ebens accusing Chin, his supposed Japanese heritage, as immediately linked to the expansion of Japanese automakers as direct cause layoffs of (white) autoworkers in Detroit’s then rapidly dwindling auto industry. Predating what would now have been a undoubted legal anti-Asian hate crime case, Chin’s 1982 death spearheaded a Chinese American civil rights movement and continues to be a commemorative milestone for recalling the (in)visibility anti-Asian violence, a violence that exemplifies both anti-Asian misrecognition, interpersonal physical violence, and the cultural rationale for protecting US racial capitalism at all costs (Ebens imposed with only probation and a fine). The Asian-ness as ersatz-Japanese-ness of Vincent Chin did not matter: his Orientalized masculine embodiment and proximity to Japanese-ness was itself conclusive evidence for a violent disciplining. However, the threat of hetero-emasculatation only heightened and drove the anti-Asian violence as already simultaneously a gendered violence. The apparent pre-altercation at “Fancy Pants Lounge,” a local strip club, consisted of an exchange of words and pushing and shoving

between both parties.<sup>16</sup> The very social and historical conditions that pre-emasculate and over-consolidate the figure of the Asian male subject, and particularly in relation to white masculinity and post-World War II, as either and only either Japanese or Chinese, is too a conditional projection of Japan as the longstanding empire of the East. A structural and institutional aggression exceptionalizes the closed-circuit singularity of Ronald Ebens' agency and too champions an Asian American coalitional banner of fighting anti-Asian violence as an issue of interpersonal injury. Histories of then Japanese and East Asian imperialism, intra and inter-ethnic and gendered violence, and aboriginal-indigenous erasure amongst imperial nation-states therefore get cast as endangering a larger project of establishing basic rights under the racial rubric for and by Asian Americans. Following in the momentum from Chin's case, Stewart Kwoh founded the Asian Pacific American Legal Center (APALC) in Los Angeles in 1983, the first and largest legal aid and civil rights organization in the United States serving the Asian American and Pacific Islander community. Heralded as a central civil rights figure in the fight for Asian American rights, Kwoh's legacy and career, as still the President and Executive Director of the former APALC (now renamed Asian Americans Advancing Justice-Los Angeles, or AAJ), has been in advocating for the improvement of tracking hate crimes for minority communities, particularly those identifying as Asian American. In a press release preparing for a launch of a community-targeted online database to college anti-AAPI violence, Kwoh states:

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<sup>16</sup> Nitz, Eben's stepson, was a recently laid off autoworker, and the altercation took place in response from Chin to derisive comments made by Ebens to a dancer, as reported by then a young Michael Moore for the Detroit Free Press. Michael Moore, "The Man Who Killed Vincent Chin," *Detroit Free Press* (Detroit, MI), Aug. 30, 1987.



While hate crimes and incidents have surged to the top of news coverage leading up to and following the November 8<sup>th</sup> [2016] election, attacks against AAPIs have received little attention. But anecdotally, Advancing Justice has heard of a number of incidents including physical threats and attacks as well as vandalism and hate messages, all targeting Asian Americans.<sup>17</sup>

AAAJ launched the #StandAgainstHatred website in early 2017 to serve as a digital platform and tool to track and expose hate crimes and harassment against members of the AAPI community. With the opening webpage tagline, in contrasting teal blue all capitalized letters, the website StandAgainstHatred.com write, “TELL US YOUR STORY. HELP US TRACK HATE.” The form requires, if participating to note the date, description of the incident, your name and email address, and State in which the incident took place. There are options to disclose location (e.g., park, gas station, place of worship), as well as race/ethnicity, gender, and sexual orientation. To submit is to give AAAJ permission to publish one’s story (anonymously without name or contact information) on their “Stories” tab of their website. With a range of thick to bare-bone details, there are a multitude of submitted stories, the majority of which are racial epithets, or “hate speech”-related.

Hate crimes, with its eventual inclusion of categories of sexual orientation and gendered bias, is constituted as a democratic neoliberal project that distinctly depoliticizes many generations of indigenous, black and brown women, queers and trans\* and gender non-conforming people of color who have resisted, survived, and prematurely been marked for death. However, the reason hate crimes have been able to bridge painful

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<sup>17</sup> “New Website Will Track and Expose Hate Incidents Against the Asian American and Pacific Islander Community,” Asian Americans Advancing Justice, January 18, 2017, accessed May 14, 2017, <http://advancingjustice-aajc.org/press-release/new-website-will-track-and-expose-hate-incidents-against-asian-american-and-pacific>.

divides between conservative, centrist, liberal, and leftist organizations, as well as social movements across the board, testifies to the allure of relegating issues of historical and structural social violence to figurations of the “hateful other”— prefigured national effigy alongside other more contemporary figures such as the terrorist, the thug, the super-predator, and the gang-member.<sup>18</sup> The remediation of such ‘wicked’ social figurations becomes the collective task of good citizenry, one which speculates, anticipates and manages social risk and social idle-ness through a shared prerogative that demands penal solutions such as ‘community-safety’ through selectively violent policing and ‘control of minority-violence’ as made possible through participation in the collection of crime data.

### **Entangled and Uncertain Methodologies Against Citizenry as Actuaries of Law**

An actuary, in the simplest definition, is one who is trained to manage and assess risk and uncertainty, particularly in the world of finances and capital cost benefit. Using a range of mathematics, statistics, and economic theories, the work of the actuary is to ensure that any potential risks and the costs related to that risk are minimized.<sup>19</sup> This research borrows the conceptual position and social role of the actuary and argues that the work of actuarial risk assessment, which primarily has been instrumental in the rapid capitalization and growth of the insurance industry, too finds footing in the development of risk-managing or risk-controlling law and projected claims of crime statistics.

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<sup>18</sup> “Hateful Other” as conceptualized in Haritaworn, Jin. *Queer Lovers and Hateful Others: Regenerating Violent Times and Places*. London: Pluto Press, 2015.

<sup>19</sup> “Actuaries,” *Occupational Outlook Handbook, 2016-17 Edition*, Bureau of Labor Statistics, United States Department of Labor, December 17, 2015, accessed May 25, 2017, <https://www.bls.gov/ooh/math/actuaries.htm>.

“Actuaries of law” is an argument made between a range of nonprofit and policy-based organizations, on the one hand, and law enforcement, governing institutions, and human social service agencies, on the other hand, to assess the law and its ability to manage risk—risky persons, communities, potential perpetrators, potential social or community unrest. This process therefore requires a constant reform and reframing of the point and position of law as a social and performative text. The law, too, in its sheer de jure presence, requires then a practice to uphold the creation, collection, maintenance, assessment, reproduction, and design of both crime and crime data. Law, as a moving social text, always exists in relation to and made knowable through those who interpret and implement its de facto power and reach. Law, in its most general sense in the United States, is a mode of order. Law and order, through processes of governmentality, are naturalized to both fulfill a commonsense of moral right and wrong and allow for certain authorized persons to adjudicate and interpret law and social ordering of things.

The speculative risk assessment as related to the historical and cultural invention of the criminalization of “hate,” was in fact, at one point, a mode of attempting to forbid particular individuated heinous acts of “hate” from one person to a targeted other, particularly those historically who faced, even at the hands of the state, persecution due to a certain aspect of their being/identity. “Hate crimes,” as an idiomatic term, has become increasingly synonymous with descriptions of suspected identity-specific targeted violence. The hope of this research is to undo the imbedded common sense of what is known as interpersonal, individuated violence and to account for the webbing of

ideological, institutional, and state oppression that has impacted multiply marginalized communities historically.

The injustices/fictive narrative arch of crime data too often takes precedent over experiential knowledge and survivor-led interventions. The contrast between the performance of objectivity via data and the “unruly knowledge” of situated testimonials is analogous to the contradiction between the seduction of legal inclusion and criminal justice reform versus the survival strategies of queer trans\*, Black, Indigenous people of color (QTBIPOC) communities. Thus, the tensions between abolitionist, anti-state responses to bias-motivated violence (or hate crimes) and community partnerships with law enforcement and state institutions create complex, moving and uncertain fields. In order to touch on these moving tensions, versus narrating the entirety of a “field” as such, I offer a transformative justice approach to this research in order to open up differing alliances and disloyalties against the practice of reforming institutions, fields and disciplines. Similarly, the hope is such counter transformative alliances perhaps can assist in dislodging fictive dichotomies between academia and activism, or respectively, study and action, or what is considered proper knowledge. Moreover, in the face of neo-fascist executive orders from the presidential office of Trump, we must remain critical of both the reproduction of state institutions and their once “community-minority-oriented” partnerships and legacies, as well as now neo-fascist law and anti-minoritarian partnerships. In other words, this is the crucial moment in which we must consider our obligation to having a strategic relationship to the enterprise of hate crimes—neither as blanket necessity/refusal nor as resignation as a necessary evil.

Rather than seeking to make narratives, or transforming testimonies of ethnography into social data, this research challenges the idea that academic writing, as a settler colonial enterprise, is a vehicle for exceptional knowledge production; instead, it insists on deauthorization or polyvocality as a methodological approach, one that allows us to move beyond encapsulating subjects and experiences. In other words, I posit QTBIPOC transformative ethnography as a method and approach to research and archiving aiming to challenge the subjugation and re-cooperation of subaltern knowledge, therefore pushing back against the neoliberal reformative penchant that seeks to expand, include, diversify, and universalize situated knowledges for control.

In Chapter 1, “As Los Angeles Goes, So Goes the (Trans)Nation: Carceral Reformations, Accountability, and K6G,” I trace the ways in which Los Angeles is positioned as a global leader of both jailing and policing as well as LGBT social service advocacy. Reforms that are counted as “wins” for the LGBT community are therefore narrated through the improvement of LGBT-sensitive policing and imprisoning. In examining the rhetoric and limits of justice that is assumed under the discourse of accountability, we can challenge the practices and tools we are left with in this current political moment.

In Chapter 2, “Mythologies of Inclusion: When One is Already Too Many,” I look at Los Angeles as an exceptional site for the production and participation in the discourse of hate crime data. Much like the exceptionalization of sexual orientation and sexuality as isolatable discourses of victimization, the self-fulfilling prophecy of ushering the inter-agency participation of hate crime data shapes the ways in which even the most

vulnerable populations, such as QTBIPOC communities, are forced to interface with the state against pre-mature death. This chapter discusses recent 2014-2015 calls for investigation of Los Angeles-based anti-trans violence and deaths of trans\* women of color (TWOc) to be understood as a hate crime, as not simply an endorsement of state-sanctioned safety, but as one mode of addressing the delegitimization of anti-trans violence at the intersections of anti-Black and anti-femme violence.

In Chapter 3, “If the Rainbow Glove Fits: Arresting Minority Partnerships, Community Policing, and Atomizing Violence,” I examine the ways in which community-based partnerships with state agencies, such as the Los Angeles County Human Relations Commission, have historically become enshrined through tactics of integration and assimilation, particularly as a mode of regulating youth of color and reducing minority-targeted violence. Through close reading of the following reports—the 1986 Racial Ethnic Religious Crimes Project; the 1986 Attorney General’s Commission on Racial, Ethnic, Religious and Minority Violence; and the 2001 California Attorney General’s Civil Rights Commission on Hate Crimes—I argue that the atomization of violence reshapes discourses of institutional, structural, and state violence to an issue of inclusion into the national body via a narrative of the “good” versus “bad” citizen.

Chapter 4, “Trans/National Queer and Trans\* of Color Specters to the Failures of Data,” begins with interrogating the space of Los Angeles as a transnational site and occupied native territory, one in which certain modes of nativism have been established to further displace and create tiers of violence that vindicate indigenous genocide. As statistical evidence functions to foreground a triumphant mode of social scientific

knowledge production, how might transformative ethnography and polyvocality offer us a different dance with the ghostly and the imperceptible? In offering a complex and necessarily contradictory space to address the inconsolability of abolition and justice, transformative ethnography struggles to conceptualize vital harm reductive, life-giving-in-the-meanwhile practices based on collective emergent uncertainty as waging new impossibilities for liberation.

## INTRODUCTION

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## I. As Los Angeles goes, so goes the (Trans)Nation: The Entrapments of Carceral Reformations, Accountability and K6G

*We are in a state of war. But it's not enough to say that or understand that it seems to me. We need to understand what exactly it is the state is defending itself from. [...] So when we say that "Black Lives Matter" I think what we do sometimes is obscures that its Black LIFE that matters. That insurgent Black social life still constitutes a profound threat to the already existing order of things.*

—Fred Moten<sup>1</sup>

*The girls usually keep physical violence [by correction officers] to themselves. They might say something if they can tell us directly, but they don't write about it as much. The fact that people don't talk about it doesn't mean it doesn't happen. It means that people are scared. There's no way it can just be the inmates because the inmates don't have access all the time. It's the guards who have access. They see it and know what's going on. If it's happening, even if it's another inmate doing it, then the guards are involved, because flat out, they're in control.*

—Miss Major Griffin-Gracy<sup>2</sup>

As the concept of justice invokes an endless flow of contradictions, whether in recitation, practice, or visions of equity and fairness. Justice, at its etymological English root, is "the exercise of authority in vindication of right by assigning reward or punishment", or simply put, the 'administration of the law'.<sup>3</sup> Whether in daily exchanges, commonsense notions, institutional policy, de facto/ de jure legal practice, or even our most futuristic imaginations of a world not yet here, the call for justice often results from a lack. Through three avenues of justice: the criminal justice system, restorative justice,

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<sup>1</sup> Fred Moten, *Do Black Lives Matter? Robin DG Kelley and Fred Moten in Conversation Critical Resistance*, December 13, 2014, moderated by Maisha Quint <<https://vimeo.com/116111740>>

<sup>2</sup> Stern, Jessica. "This is What Pride Looks Like: Miss Major and the Violence, Poverty, and Incarceration of Low-Income Transgender Women" in ed. DeFilippis, Joseph N., Lisa Duggan, Kenyon Farrow, and Richard Kim. *The Scholar & Feminist Online*, Issue 10.1-10.2 (Fall 2011/Spring 2012) <http://sfonline.barnard.edu/a-new-queer-agenda/this-is-what-pride-looks-like-miss-major-and-the-violence-poverty-and-incarceration-of-low-income-transgender-women/0/#sthash.nyrtuhTK.dpuf>

<sup>3</sup> <http://www.etymonline.com/index.php?term=justice> <accessed January 30, 2016>

"justice (n.) mid-12c., "the exercise of authority in vindication of right by assigning reward or punishment;" also "quality of being fair and just," from Old French justice "justice, legal rights, jurisdiction" (11c.), from Latin iustitia "righteousness, equity," [...]The Old French "uprightness, equity, vindication of right, court of justice, judge [...]" Accessed January 15, 2016.

and transformative justice, it asks how might these ideological and material interpretations of justice inhibit and or make possible life both in particular and abstract ways?<sup>4</sup> This chapter begins by considering the various ways in which “accountability” has been studied and used as an evaluative mode to define what is “just” or justifiable. Through discourses of “police accountability”, it will further argue that carceral logics have continued to control the reach of what justice could mean through spurious processes of accountability. The second section will focus on the case of K6G, the gay and transgender women’s unit inside Los Angeles County Men’s Central Jail. Interwoven with an ethnographic narrative, it will argue that differentiating community power wielded against expansion of state law enforcement agencies versus being yielded as a “community-based partner or relation” controlled by state law enforcement agencies, allows for clearer reflective pathways distinguishing abolitionist reform from carceral expansive reform. Moreover, in an effort to uplift the nuances of collective resistance to the entrapments of the criminal justice system, it argues that survival necessitates dealing with faulty options, ones that do not always result from or in strategic abolitionist reform, yet these contradictions are interlinked to visioning a world beyond just justice.

### **Accounting for Whom and for What?**

Whether from institutions of financial management to studies of compliance in regulatory procedures and practices, accountability is broadly defined as, a process of

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<sup>4</sup> What Miranda Joseph describes in *Debt to Society* as the abstraction/particularity dialectic.

holding individuals or organizations responsible for their performance or actions.<sup>5</sup>

Edward P. Weber defines the process of accountability as a “set of roles, rules, norms, decision-making procedures, and programs that serve to define social practices and to guide interactions of those participating in these practices.”<sup>6</sup> In one sense, accountability is a process that does not necessitate public or social accountability, but relies rather on the internal structural and performative mechanisms within a system itself, an interior relationalism. The system, however willfully negligent to the exterior—to relationships of moral, social, ethical, justice-based obligations—can still be, as is often the case, unquestionably founded in settler colonial genocide, anti-indigenous, anti-Black, institutional and structural racism, ableism, and gendered and sexual violence. Governing structures, such as the U.S. government, military, law enforcement, NGOs, World Bank, IMF, international corporations, with internal mechanisms of accountability do not need to review their institutional impact beyond pre-designated social partners and specified public sector. However, most performance-based systems do not exist within a sphere of power unto themselves. Internal review and self-reporting practices promulgate narrow conceptions of accountability as a logical syllogism. Weber describes two critical threads of inquiry in accountability scholarship, asking “for what” and “to whom” as a means of

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<sup>5</sup> Brown, David and Jonathan A. Fox eds. “Accountability within Transnational Coalitions” in *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements*, Cambridge, MA: MIT Press, 1998, p. 12, p.439.

For original cited source, please see: Samuel Paul, “Accountability in Public Services: Exit, Voice and Control,” *World Development* 20, no.7 (1992), p.1047.

<sup>6</sup> Weber, Edward P. 2003. *Bringing society back in: grassroots ecosystem management, accountability, and sustainable communities*. Cambridge, Mass: MIT Press, p.30 Further citing: (North 1990; Young 1996; March and Olsen 1989) Weber maps accountability “elements of the accountability framework” formal institutional structure, formal institutional processes or procedures, informal institutions or spaces, systems of management or bureaucracy, performance and results, p. 30-31.

promoting models of broad-based democratic accountability, an accountability as existing beyond dualities of internal or external to governing structures.<sup>7</sup> Carol Chetkovich and Frances Kunreuther describe models of grassroots accountability as making possible sustainable community-led relations between governance, democratic internal structures, collectivity, consensus decision-making and consistent commitment to community input and holistic engagement. Weber on the one hand and Chetkovich and Kunreuther on the other present two models of accountability, reformation of top down hierarchical “above” model versus a grassroots bottom-up “below” accountability approach.<sup>8</sup> Social and public accountability, particularly when leveraged by players outside the system in challenge, can force new bottom-up accountability in even the most self-regulated and naturalized systems of power such as law, policing and prisons.

Candace McCoy, editor of the 2010 anthology  *Holding Police Accountable*  describes the subject of police accountability scholarship as a past fad, its previous heyday establishing in the wake of 1960s and 70s professional reform that focused on regulatory cohesion and uniformity between local, state and federal agencies, “standards of law and internal departmental rules in compliance with law.”<sup>9</sup> At that moment where local “watchman” patrols transitioned rapidly into cooperating law enforcement agencies, the U.S. Constitution as a regulatory juridical device united the development of agency

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<sup>7</sup> Public accountability however calls into question by constituents or those opposing the interests of such institutional bodies, demanding more than simply the performance and effectiveness of policy and procedures within a system. Weber,101.

<sup>8</sup> Chetkovich, Carol A., and Frances Kunreuther. 2006.  *From the ground up: grassroots organizations making social change.*  Ithaca: ILR & Cornell University Press, p.184, fn.13.

<sup>9</sup> McCoy, Candace.  *Holding Police Accountable.*  Washington, D.C.: Urban Institute Press, 2010, p.xiii. McCoy describes the field as instead shifting towards discourses of police professionalism and community policing, even amidst the highly publicized police scandals and corruptions of the 1990s and early 2000s.

policies and procedures on a federal to local level. Accountability within this sector of internal governance was distinctly framed as a top down “above” approach, albeit with an acceptable range of autonomy and discretion as “justifiable” as long as avoiding noticeable violations to constitutional law. Following this original wave of traditional “police accountability”, alongside the expansive growth of criminal justice system, rapid private and public prison construction, “tough on crime”, “quality of life” “broken window” policing and targeted incarceration, the “war on drugs”, extreme austerity measures via welfare reform inciting economic warfare on working class inner-city people of color, particularly Black and latin@ families, neoliberal social science research on “accountability” took up interest in discrepancies in discretionary practices in racial profiling and “implicit bias.”<sup>10</sup>

Current criticisms of police accountability not only name failures to comply to law and internal policy, but link racial profiling, unfair sentencing, racially-bias excessive and lethal force as systemic issues beyond individual misconduct. In 2011, the United Nations Office on Drug and Crime published “Handbook on police accountability, oversight and integrity”, offering policy recommendations to which both the state and civil society are integral to ensuring the legitimacy of the policing system. This account of necessary international criminal justice reform presumes that a system of policing with oversight and accountability will create ever-better, ever-improving and effective

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<sup>10</sup> This term has been most famously contributed to the work of the “Implicit Association Test” or IAT out of Harvard University. Founded in 1998 by a team of research scientists, Tony Greenwald (University of Washington), Mahzarin Banaji (Harvard University), and Brian Nosek (University of Virginia) For more information, please see: <http://www.projectimplicit.net/about.html>, Accessed, February 1, 2016.

policing.<sup>11</sup> However, even in the realm of accounting for police misconduct on an individual officer basis, these discourses continue to naturalize the social contract and exponential expansion of the (post)modern police force, one which uses new invasive and sublimating technologies such as geolocation, biometrics, hyper-militarization, drone and identity surveillance, big data, and (c)overt intelligence gathering via “community participation” and NGO collaborative crime databases.<sup>12</sup> Policing, as Foucault theorized nearly a half-century prior at the birth of the modern policing, in a coupling relation to the prison and the criminal justice system, seek to seamlessly produce disciplinary power, naturalizing its ability to make accountability and justice a matter of perfecting crime control and administration of punishment (euphemistically deemed rehabilitation).<sup>13</sup> Policing and prisoning, as a modernized system that must appear to always account for its parts and whole at all times, remains self-defending, self-justifying, self-surrounding and thus mandating its indispensability to shared notions of (criminal) justice, even when admitting to corruption and or crisis by its own rules.<sup>14</sup>

The issue of police accountability and U.S. police violence has remained front and center in national and international news since the blooming of #BlackLivesMatter in 2013.<sup>15</sup> Those who understood the necessity of the outcry of “Black Lives Matter!” often

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<sup>11</sup> The United Nations Office on Drug and Crime. 2011. “Handbook on police accountability, oversight and integrity”, New York, NY: United Nations.

<sup>12</sup> Beyond accounting for the performance of rules, policies, procedures and regulations, police forces at their base only seek accountability unto themselves and the state.

<sup>13</sup> Foucault, M. 1977. *Discipline and Punish: The Birth of the Prison*, New York: Vintage Books.

<sup>14</sup> For more please see: Spade, Dean. 2011. *Normal Life: Administrative Violence, Critical Trans Politics and The Limits of Law*. Brooklyn: South End Press.

<sup>15</sup> Alicia Garza states “Trayvon Martin was post-humously placed on trial for his own murder and the killer, George Zimmerman, was not held accountable for the crime he committed”, the U.S and international grassroots movement of Black Lives Matter was born in a hashtag in 2013, in social media exchanges between longtime friends and organizers Alicia Garza, Patrisse Cullors and Opal Tometi. For more: Alicia

identified in one of two factions, those who understood the criminal justice system as a thing lacking accountability and need of repair and those who believed the system was perfected through the continual control and extermination of “insurgent Black social life.”<sup>16</sup> The former viewed as inhabiting a restorative justice or reformist approach and the latter as more aligned with abolitionist/transformational justice framework. Public discourses critiquing police brutality and law enforcement abuse have both invoked and challenged various processes of “accountability” inside and outside of more familiar frameworks of justice.<sup>17</sup><sup>18</sup> Self-regulation in governance and most public institutions, like law enforcement, will always perform some modest interior/internal accountability via administration and enforcement of formal agency policies. With law enforcement, this normally involves agency-level and or individual-level officer processes of self-regulated accountability that largely remains dependent on documented civil or supervisor-based

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Garza’s “A Herstory of the #BlackLivesMatter Movement”

<<http://www.thefeministwire.com/2014/10/blacklivesmatter-2/>> October 7, 2014.

From Oscar Grant, Michael Brown Jr., Ezell Ford, Akai Gurley, Freddie Gray, Walter Scott, John Crawford III, Tamir Rice, Eric Garner, Mya Hall, Tanisha Anderson, Sandra Bland to Mario Woods (only a short list of the more prominent cases).

<sup>16</sup> Fred Moten, *Do Black Lives Matter?*

<sup>17</sup> For instance, proposals for passing legislation to enforce the use of police body cameras have critiqued what actual regulatory power body-cam footage has when written policy and legislation still leaves interpretative grey areas for police discretion in manipulation, deletion and retention of footage and in determining what footage is made available to public based on issues of “civilian privacy protection.” For more, please see ACLU article <<https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all>>, Accessed February 1 2016.

<sup>18</sup> Body cameras for law enforcement are a means of hosting more public and internal accountability, however, even so, the power of the cop is only re-formed and re-fortified through such efforts. Fanon describes this extensively as a naturalization of violence in mind and home for the non-settler, where agents of government trained to openly practice a “language of pure force” and domination, and where centering the issue of body cameras does little to actual remove power from such agents. We Charge Genocide Chicago organizer Monica Trinidad states, “This disregard for Black lives is systemic and cannot be solved by officers wearing cameras, as we clearly saw today [...] Body cameras will not stop Black people from being tragically killed by police officers, and will sadly only give us more horrific footage to view, and more evidence that power needs to be taken away from them.” From: Erbentraut, Joseph. December 4, 2014. “Some Critics Aren't So Sure Body Cameras Are The Solution To Police Abuse In Chicago” in Huffington Post <[http://www.huffingtonpost.com/2014/12/04/chicago-police-body-cameras\\_n\\_6264826.html?ir=Chicago&utm\\_hp\\_ref=chicago](http://www.huffingtonpost.com/2014/12/04/chicago-police-body-cameras_n_6264826.html?ir=Chicago&utm_hp_ref=chicago)>

complaints. Agencies such as Internal Affairs, police unions and state investigative bureaus might further become involved when mass outcries generate enough public pressure such that holding police officers or departments then force the investigative hand of outside agencies. However, police unions often in the provisional fine print of their contracts prevent even the most modest forms of individual-level accountability.<sup>19</sup>

Criminal justice reform, even if reaching accountability par excellence, still cannot conceive of rule of law and “crime and punishment” as, in itself, a thing undignified, as that which only can offer a violently subjective objectivity. The analogous relationship between “poverty” and “criminality” and class and contribution, either owes or benefits from the exponential power and institutionalization of U.S. law and criminal justice system. Miranda Joseph in *Debt to Society: Accounting for Life under Capitalism* demonstrates the encompassing relation of crime and debt as measures and metrics in which we have come to know and inhabit forms of accounting for justice.<sup>20</sup> The rapid expansion of interstate-agency intelligence gathering, multiagency participation and crime data naturalizes a white supremacist penal logic as evidenced by numbers narrating and mapping crime trends and social failures. Inversely, such data production also awards success to law enforcement for efficiency when numbers decrease from one year to the next. These numbers are purposed both to account for trends from particular to abstract sets of typified crimes (eg; hate crimes, property crimes, sex offenses), and ensure the stockpiling of state-based data production year to year. Such accounting via numbers

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<sup>19</sup> For more information see “Police Union Contract Project” at <<http://www.checkthepolice.org/#project>> Accessed February 10, 2016.

<sup>20</sup> Joseph, Miranda. 2014. *Debt to society: accounting for life under capitalism*. Minneapolis, MN: University of Minnesota Press, 29-31.



performs as objective evidence for state agencies to prove funding needs. Such accounting for “injustices” against the law or the state not only naturalize the need for accumulating and standardizing state data as an actuarial science of pre-crime profiling, but has become the hardened receptacle for conservative to progressive criminal reform (eg; less insensitive or more inclusive categorization, streamlining or making more autonomous data intake procedures and policies). Criminal justice reform via statistical accounting or processes of state accountability remains an unshakeable calculus of crime and debt, a sublimated calculus that has been perfected through historical and material atrocities of colonial and racial violence, capitalism and accumulation.

Nonprofit foundations, policy institutes, NGOs and social justice organizations seeking justice often participate in the production of state-based data as well as advocate for resources based on state-based statistical claims. Brokering coalitional partnerships with state agencies in order to gain access to federal funding and advocate for some version of law reform, such efforts regenerate the notion of state-based justice as justice incarnate.<sup>21</sup> Jennifer Wolch pointedly describes in 1990 the very conglomerate role of the voluntary sector in institutionalizing what she calls the “shadow state” and what Treva Ellison has described as the phenomena of individuals being “serviceable yet unprotectable.”<sup>22</sup> Such a voluntary sector, however focused on issues of “social justice”, is compelled to account for injustices through contribution and application of state-

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<sup>21</sup> Dean Spade describes, “This analysis [“Whats wrong with rights?”] illuminates how law reform, work that merely tinkers with systems to make them look more inclusive while leaving their most violent operations intact must be a concern to many social movements today.” In *Normal Life*, p.91

<sup>22</sup> Wolch, Jennifer. 1990. *The Shadow State: Government and Voluntary Sector in Transition*. New York, NY: The Foundation Center.

Ellison, Treva, “Towards a Politics of Perfect Disorder: Carceral Geographies, Queer Criminality, and Other Ways to Be.” Dissertation, University of Southern California, 2015.

mandated statistical crime reporting, what Berlant describes as the collusion between social justice activism and risk-management governance in producing an “actuarial imaginary of biopolitics.”<sup>23</sup> In other words, the politics of identity-making and service provision create an image of abstracted yet particular peoples *as* risk, those who are most inherently a “debt to society.”<sup>24</sup> These realities thus leave certain catch-all identifies perhaps serviceable to a degree, yet fail to guarantee safety from daily state or law enforcement violence.<sup>25</sup> Accountability of who receives protection at expense of disposable others results not in a matter of increased safety, but permitting state-sanctioned safety as the very punishment of excessive social life.

The omnipresence of the criminal justice system (from border patrol, TSA, probation offices, juvenile and immigration detention centers, hate crimes task forces, public school officers, highway patrol to correctional officers etc.) has largely continued to attempt to control and dictate what is meant by this pliable and bureaucratic term “accountability.” Authorized forms of “accountability” by state apparatuses—as an ideological, practical, and socio-historic process—therefore hides the flexible interiority that make any such claims to “accountability” actually lifeless or selecting of what is left for living (*make live and let die*).<sup>26</sup> Accounting for the productivity and generative possibilities *within* and *by* the criminal justice system can only attend to prescriptions and

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<sup>23</sup> Joseph, 31. For further reading please see original citation (Lauren Berlant, 2007b, 761).

<sup>24</sup> Audre Lorde challenged such carving up of identity as a dangerous “hierarchy of oppression (an oppression Olympics)” that simply does not exist when inhabiting the reality of intersectional and complex identities. For more please read, Lorde, Audre. 1983. “There is no hierarchy of oppressions.” *Bulletin: Homophobia/Education*, 14 (3/4).

<sup>25</sup> An allopathic social services approach of suppressing the symptom and ignoring the whole-body.

<sup>26</sup> Foucault, Michel. 2003. *Society Must Be Defended Lectures at the Collège de France 1975–1976* and *The History of Sexuality Vol. 1: The Will to Knowledge*.

proscriptions of particular colonial and imperial notions of justice, notions reproduced through the very mechanisms machined to control of life abound (in excess and surplus) against a securitized and protectable life (universality or “the human” as intrinsically excluding/exclusive).<sup>27</sup> The task of criminal justice reform thus has remained an adjustment of the decibels in which “administration of violence” has reached an unwarranted peak. Such accounting thus can only register the state’s failure or our collective failure to conceive of a more just discipline, one where intensity of punishment can be traded against a decrease of magnitude of projected social risks. Such a calculus always begins and ends with the deficit incurred by the risk—“the criminal”—and their relationship to the crime and society. Like a non-expungeable criminal record, the “criminal” remains in eternal indebtedness to the state. Although U.S. criminal justice system has reformed from sovereign power and corporal punishment to biopolitical discipline through “mass incarceration”<sup>28</sup>, the state, even in its decentralization of power, holds hostage our shared sense of value we attribute to one another. Joseph describes this deficit *as* debt to society, the “criminal” time paid to society through prison time.<sup>2930</sup>

Fred Moten invites us to consider a new way of looking at the world beyond the “rubric of accounting, or accountability, or accountableness, or something, of calculation

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<sup>27</sup> “The universal was invented as exclusion. Period.” –Robin D.G. Kelley at *Do Black Lives Matter?* For more, see forthcoming work by J. Sebastian critiquing the colonial conception and foundation of human rights, both through the figure of “human” and the body of “the law.”

<sup>28</sup> Dylan Rodriguez challenges us to consider the use of “mass” incarceration as mode of falsely distinguishing incarceration as a problem of the masses, but rather incarceration as a particularly settler colonial project that has particular set of functions in anti-Black racial and gendered control.

<sup>29</sup> Joseph, 38.

<sup>30</sup> This debt is largely ideological yet material in time and captured life, as the government cost to incarcerate an individual is upwards of 40K in California, over four times the cost of providing public education. For a graph across U.S. states, see: <http://money.cnn.com/infographic/economy/education-vs-prison-costs/> Accessed February 1, 2016

in that sense” through “the abolition of credit”, one of the most violent and death-making structures of our times. He writes, “anybody who’s breathing should have everything that they need and 93% of what they want – not by virtue of the fact that you work today, but by virtue of the fact that you are here.”<sup>31</sup> Life cannot be accounted for in terms of deserving or earning credit or imposed with debt. It is not work, labor or one’s inherited birthright that earns credit, rather life is the thing that exceeds accountability. Life cannot be actually be accounted for— life *just is* by virtue of *being*. Implemented policies and protocols such as the police dispatched acronym and category of N.H.I. (*no humans involved*), brought to light following the Los Angeles uprisings in 1992 (“1992 L.A. Riots”), became a code to permit any discretion of force upon Black and brown inner-city jobless youth deemed disposable. Routine practices such as these, approved by government agencies, loudly demonstrate how obeying internal organizing protocols of self-accountability can too exist as violent and empty signifiers of justice. Sylvia Wynter concludes in her 1992 letter “No Humans Involved” that even with the life counted as less or absent of humanness, no matter, life lived simply is the *Truth*, She states “He is, they are, the Truth.”<sup>32</sup> Wynter here challenges all systems of accounting, positivist logic and knowledge-making in order to provoke us to consider our role as those who are in the business of “instituting this Truth” as the subject of adjustment and transformation, not the manufacturing of the criminal subject/object/figure of social control. How then might

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<sup>31</sup> Harney, Stefano and Fred Moten. 2013. *The Undercommons: fugitive planning & black study*. Wivenhoe; New York ; Port Watson : Minor Compositions, p.155.

<sup>32</sup> Wynter, Sylvia. "No Humans Involved: An Open Letter to My Colleagues." *Forum N.H.I.: Knowledge for the 21st Century*, Vol. 1, No. 1, Fall 1994: 70.

our conceptions of the value of life actually not be grounded in value *as* our adjustment to capitalism and criminality?

### **From Criminal, Restorative to Transformative Justice**

The criminal justice system (CJS) largely is described as a “set of agencies and processes established by governments to control crime and impose penalties on those who violate laws.”<sup>33</sup> CJS is a complex, multi-site, multi-agency, interstate, federal and with transnational and global appendages, that functions to both define, dictate and make common sense that which then understood as unjust—morally irreprehensible, criminal in action, and enforceable by law via punishment. Much of our common sense understandings of “justice” are filtered and examined through the omnipotent and often omniscient like lens of the criminal justice system. The fact that criminality and justice are considered a logical tautology, where one defines the other in a seemingly unbreakable loop, one that is coercively condoned through mass participation in said system, this is the dastardly inescapable hegemonic premise of law— and under the banner of “safety” or fear of outsider “threat”, the sacrifice for those who were envisioned as the original protectable subjects is that we might place ourselves or others at risk in the process of interfacing with the CJS. It is what we have come to know as justice, that there is just us, that we are individuated to the point where our struggles, the reason one needed to ‘commit petty theft’ is likely provoked by reasons conditioning the

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<sup>33</sup> National Center for Victim of Crimes  
<<https://www.victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/the-criminal-justice-system>> (Accessed September 18, 2015).

criminalization of poverty. Houselessness and inability to access your health needs, if further coping with substance abuse and or even survival work in the sex trades, these are the figures idleness and failure.

This system has been broken since its invention, serving those, first, who were considered even citizen of the court. Overtime measures of inclusion have overturned most outright discriminatory practices and legal segregation that divided those belonging and not. However, the system turned to more insidious practices that forced specific targeting of class and undoubtedly the way lived through racial formations of peoples. Criticism of the CJS caught storm in the wake of the restorative justice movement, which sought to move away from punishment and towards some form reconciliation.

Restorative justice (RJ) focuses on those directly impacted (called stakeholders in RJ parlance), and the process of repairing harm to victims and affected communities. Restorative justice, like CJS, has and can be stretched to appear and be practiced in incredibly varying venues from the courtroom, classrooms and inter-community organizations. RJ as a practice is not necessarily to replace the CJS or necessarily re-form its foundational constitution, rather, it is to focus on how “crime” or a wrongdoing negatively impacts a whole community, and first and foremost, the person directly impacted, and this focus must take premise over the focus of “criminality”, of the punishment. For RJ, punishment is not the motive as much as it is accountability or repair, restoration of the wrongdoing. Restorative Justice largely has had the potential to reduce the disproportionately negative impact that CJS has had most severely on low income, working class, impoverished, Black, brown, immigrant and native communities;

however, the reality and criticism, particularly from transformative justice, is that it still relies and reproduces the status quo, that is too closely seeks to collaborate and conspire with the CJS, reforming it in ways that do not even dent the insurmountable harm produced from being marked for death or disposal by the many institutions that surveil, police, judge, sentence, punish, imprison, abuse, parole and condition recidivism. Restorative justice is a mode of practical intervention that in the end has made an intervention into the death-making of CJS through preemptively seeking to not rely on the CJS, and instead the tools of RJ. For instance in schools in South Los Angeles and Historic Compton, RJ has creating alternatives to reduce the number of police officers in schools, although still requiring safety peace officers (still county paid officers but without being armed with lethal weapons). This example is to say ideally these officers are likely then trained to respond through RJ and not directly through policing or reporting as law enforcement would do, therefore reducing the direct line between school officers to the prison.<sup>34</sup> However, TJ critics advocate for placing such interventions into community based solutions outside of mandating any cooperation with law enforcement, that still even, young people of color are policed so alarmingly, even for tardiness.<sup>35</sup> One example of a TJ based education platform or program would be through organizations like the Youth Justice Coalition in Los Angeles that exists at Chuco's Justice Center. YJC, both in running TJ/RJ programming, also is invested in community education and empowerment through countering tactics such as gang injunctions that in effect tear apart

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<sup>34</sup> For more please see scholar activists who write on this topic, such as Damien Sojourner, Lucha Arvelo, David Chavez and Connie Wu.

<sup>35</sup> For example the overturning of truancy law was amended in Los Angeles in 2012 with much community organizing that focused on its undue impact on low-income students of color, and those who relied on a public transit system that favored service in communities with higher incomes.

families of color who are entrapped into these geographically designated high intensity zones of policing.<sup>36</sup> The belief, like YJC's 1% campaign, is in re-investing in community-centered and run programs and resources, to grow the power from below, from those most directly impacted by enhanced sentencing, whether it be gang-enhancements or hate crime enhancements.

Lastly, transformative justice (TJ) is a both a philosophical framework and practical strategy to respond directly to harm done outside of relying solely on the criminal justice system. In 2000, Ruth Morris published *Stories of Transformative Justice*, stating,

Transformative justice uses the power unleashed by the harm of the crime to let those most affected find truly creative, healing solutions. Transformative justice includes victims, offenders, their families, and their communities, and invited them to use the past to dream and create a better future. [...] Transformative justice recognizes the wrong of all victims, and recognizes also that sooner or later, we are all victims and offenders. But it doesn't use that truth to excuse to harm to any current victims."

Ruth Morris to some is one of the founding writers and practitioners of a particular form of RJ-informed transformative justice, and the definition supplied here nearly mirrors Howard Zehr and other founding writers of restorative justice. However, she states the biggest difference between RJ and TJ is the past, that is, a means to go beyond just centering healing and the victim, but takes into account "distributive injustices" (social causes and forces from throughout history). Morris continues that it is not that "street crime and theft" are justifiable, but there is a context in which such crimes exist and are

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<sup>36</sup> For more, see the work of Treva Ellison and Colby Lenz, "Mapping Police Violence in Los Angeles", S&F Online, Issue 13.2, Spring 2016. <<http://sfoonline.barnard.edu/navigating-neoliberalism-in-the-academy-nonprofits-and-beyond/treva-ellison-colby-lenz-mapping-police-violence-in-los-angeles/>>



committed. However, the critically unapologetic and abolitionist transformative justice that is offered today via organizations like Critical Resistance, INCITE National, Transformative Justice NYC, Bay Area Transformative Justice, to name a few, is less concerned with justifying theft or petty crime, particularly in a world in which particularly survival “crime” is determined, profiled, policed and punished far more efficiently and without out question or pause, much more so than white collar and corporate crime. Morris uses an example of CEO of Disney annual salary outweighing that of a factory worker of Disney by over 191,666 times, noting too not only in capital compensation, but in life compensation, that distributive injustice too means some will fall prey to premature death due to workplace induced health risks of heat and bodily exhaustion, stress, toxicity and general health depravation, while others will have unending access to the most expert and state of the art health and medical facilities and treatments. The context in which distributive injustice exists is not simply an issue of distribution, it is an issue of entitlements and power that inter-generationally have been deprived from those who historically are and were not imagined as protectable, as less than fully human. Systems of justice then simply cannot wiggle themselves out of naturalizing logics of exclusion and inclusion, better and worst off, and even as we see in visionaries of transformative justice to criminal justice, victims and perpetrators. A transformative justice practice that takes into account not only logics of fictive comparison but also the past must travel back to a time in which justice as we know did not exist.

If we are to think broadly of transformative justice outside the criminal justice system, we must think of the non-linear times marked 1492, times in which peoples and communities resisted and continue to resist the entrapments of U.S. Constitutional law and justice. Perhaps by another name, but indigenous, anti-imperial, anti-colonial and abolitionist philosophies, cultural values and shared practices did exist prior to the reform and critiques of penal, punitive, retributive criminal justice system, or what is more accurately terms the criminal punishment system. Transformative justice can overlap in principles and practices with RJ, but one of the noted core values of TJ is its unwavering proposition that it exist as an autonomous alternative, not only to the criminal justice system, but one that transforms our root understandings of justice away from punishment, state violence, retribution, and fictions of balancing scales.<sup>37</sup> Transformative justice overall as ideology is not concerned with reforming the CJS or making efforts to improve its capacity; rather it seeks to dismantle it. TJ exists conterminously both as a practice, philosophy and ideological posture. I say this as the CJS, undoubtedly, exists in every part of our lives, in a way that is so deeply imbedded, that even the philosophies of TJ are in part a reaction to the devastation of the CJS. The belief that one can choose to fully opt out of participating in CJS is only a idyllic posture from a place of great privilege, a privilege of not having to interface with law enforcement, to not be a person or object with a target on their back. Transformative justice however, like abolition, is not simply an all or nothing game, rather, there are incremental ways in which transformative justice must access and approach the reduction

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<sup>37</sup> <[https://en.wikipedia.org/wiki/Transformative\\_justice](https://en.wikipedia.org/wiki/Transformative_justice)> (accessed September 18. 2015)

of power of CJS through RJ tools and measures. This is why my account of approaching the critical foundational problems of hate crimes will necessitate a multi-pronged approach somewhere between impossible and in the meantime harm reduction.

Transformative justice and abolition of prisons and jailing work in tandem in the sense that both seek to replace a destructive system of penalty, crime and punishment, whereas TJ further crystalizes the importance of the role of not the “victim” (as a term used still in RJ parlance), but rather, the survivor, the person who is not defined by a binary of victim perpetrator (as defined by RJ.) Survivors are both those who were directly impacted by the harm, and also can exist as the community that has survived that particular harm as a result of systemic, structural and/or institutional harm/violence. TJ differs from RJ in the sense that it is unwilling to distinguish individuated claims of harm from the structural oppression that enables, provokes and necessitates individuates interpersonal harm. Whether this be a culture of patriarchal dominance that diminishes the capacity and dignity of trans\*/femme/women of color (domestic/street-based or interpersonal sexual assault or violence), or whether it be employment and housing discrimination that results in substance abuse, sex work, incarceration and survival economies like sex and drug trade (“illegal activities” of prostitution or buying/selling of illegal substances), these modes of turning to “criminal activities” are considered criminal by CJS, wrong doings in RJ and rather harm-doing in TJ. Both RJ and TJ understand this harm to be one that impacts community and individuals involved, including the “victim” and the “perpetrator”; TJ would acknowledge that perhaps the lines are not that simple as between victim and perpetrator, rather survivor and harming person, who themselves

might have been harmed or even been harmed in the process. Further, RJ and TJ understand that when there are multiple modes of violence that a particular individual within a particular identity group survives, or in cases in which one does not survive, this harm has an additive and traumatic harm to the community from which that person is aligned to. For instance in cases where trans\* women of color (TWOc), particularly Black and Latinx trans women who face an alarmingly devastating rate of gruesome violence and murder, both as a result of the entanglements of racialized, gendered, sexuality, and poverty-based violence, when one Black trans\* woman is murdered, this is a cause for alarm, concern and trauma for all Black trans\* women.<sup>38</sup> Transformative justice understands that it is not just the case that one individual Black trans\* woman was violated, rather, there were multiply impacting violences that put her at harm. However, in the current legislative moment in which even her race, gender, sexuality and class status are not legally recorded and understood as contributing to the conditions of one's premature death, having hate crimes reflect transgender (gender-based) and anti-Black (race-based) violence does little to transform the structures of violence that disjoint a persons lived embodiment and complex corporeality, and likewise that make for precarious life for TWOc and poor queer and trans\* people of color overall. The factor of "class", that which Black and Latinx trans\* women are reported as facing the highest rate of HIV-exposure, homelessness, unemployment and unmet health care needs, what is left is too often a coercive enclosure in which survival economies are made necessary, thus

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<sup>38</sup> As noted by Black trans feminists independent scholars and activists such as CeCe Macdonald, Janet Mock, Cherno Bikko, Miss Major Griffin and Reina Gossett

placing TWoC at higher rates of murder and street-based violence, are these conditions not enforced through state-negligence or law enforcement profiling and violence?

### *The Field of Unjustifiable Hate Crimes*

The field of scholarly work on hate crimes often has fallen into two camps, those who have assessed and justified the development of hate crimes, and those who critique it wholesale. However, my research is less interested in a value judgment of hate crimes as much as it is invested and prioritizing what it means, 1) culturally, as it has become a linguistic shorthand for any “bias motivated” violence, 2) how this cultural short hand has now shaped the possibilities we see for interventions, solutions, resolution, justice, transformation, accountability to violence, particularly for those whose intersectional identities are simply not accounted for under UCR. Similarly, as much as the wholesale disaffiliation with hate crimes, the measures of reform that situate more possibilities for survivor-centered antiviolence possibilities through the appearance of inclusion through data, meta data, collected data etc.

As noted by criminologists and legal scholars such as Valerie Jenness, Carolyn Turpin-Petrosino, James B. Jacobs and Kimberly Potter, these scholars argue generally that the purpose and function of hate crimes is to offer a social/cultural/political/legal enforcement of bias-motivated violence that thus conjures a common sense in which we are all dignified whole beings or protectable subjects. Unfortunately, the reporting, documentation, the becoming a statistic, the becoming a criminalized offense, the prosecution of said offense, and the enhanced sentencing of the hate crime, all are

intended to some degree, to exist as a moral tale of that which is unacceptable under the law and will be prosecuted to the fullest extent of the law. This moral tale exists to, at its best, be a cautionary tale, to those future potential “perpetrators”, that they too will be held to such legal standards, and such bigotry will not be tolerated. In response to what has been generally reformative approaches to Hate crimes, or understanding this enterprise as a necessary moral/public good, the last decade much literature and campaigning has since pushed back on these assumptions. Jin Haritoworn describes and critically challenges us to consider that even the repeated vernacular of hate (crime/violence), from nonprofits, activists, to legislation, reinscribes, the figure of a hateful other, both in crime and pathology, into a “murderous systems of inclusion.” Haritaworn further discusses this dichotomy of hateful criminal as already racialized, perverse, and mad... So how do we tackle then the conditions that enforce participation to these institutions and legal systems?

This need for legal recognition and reinforcement of law through protection and criminalization has become such a commonsense and core value of citizenry in the U.S., to be recognized is to be protected, and vice versa. To be recognized correctly and justly is to be protectable as victim or injured, not presumed, assumed of innately defined as predator, perpetrator, terrorist, criminal et. The binaristic logics of victim versus perpetrator, civil versus uncivil, nonviolent criminal versus violent criminal, and so forth, have been tropes used throughout the history of the establishment and reproduction of constitutional law and the judicial system in the U.S., and the performance of secular objectivity of U.S. based democracy. These systems of “versus” even, are what

constitute the criminal justice system at large, where the state and law is always named as the one which those are questioned about their obidingness.

This moves us to the body of work this project is situated in, From Spade and Wilsse's 2000 *Confronting the Limits of Gay Hate Crimes Activism*, to Jin Haritowron's work in *Queer Lovers and Hateful others*, with an examination of deadly circulations of affect of "hate", to Cathy Cohen's contributions in examining the tensions in queer radical politics, Christina Hanhardt's critique of juridical function of hate crimes, to Chandan Reddy's critique of administration of violence through antiviolenence legislation like the The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, to lastly Black feminist interventions such as Beth Ritchie's scholarship on carceral entrapments of DV and the criminalization of Black women's survival and resistance, to most importantly, organizations like Audre Lorde Project and their Safe Outside the System project, Sylvia Rivera Law Project, NYC Anti-Violence Project, FIERCE NYC to BlackandPink.org.

### **To Survive K6G: Collective Possibilities for Life Beyond**

Never fully understanding the label of "scholar-activist", I spent most of 2014-2015 deciding to slowly cycle off collective work in social justice organizing spaces, particularly transgender of color, prison-abolitionist and labor organizations, actions, rallies, endless meetings, collective strategy sessions, dinner table dreaming and scheming, in order to complete a dissertation. I believed that by unplugging with these communities, this sacrifice would ascend my chances to steal away university resources

for redistribution, as “the only possible relationship to the university today is a criminal one.”<sup>39</sup> Little did I know, in transitioning to what I considered doing just “interpersonal community jail support” that I would come to understand the importance of tracing the challenges and lessons learned in working, in the most mundane ways, both outside and within practical state-controlled justice channels as sometimes an extremely faulty but necessary means to meet peoples livelihoods and self-determined requests. This section will offer some of those moments in pieces.

Los Angeles is often championed as a model city for its history of lesbian, gay, bisexual and transgender (LGBT) friendly social services, particularly the largest service-providing LGBT center in the world, the Los Angeles Gay and Lesbian Center (LAGLC). LAGLC is known for its partnership in modeling and educating the Los Angeles Police Department (LAPD), West Hollywood Police Department (WHPD) and Los Angeles Sheriffs Department (LASD) with more gay-friendly and transgender sensitive reforms in policing and imprisonment. Not only is Los Angeles County Men’s Central (MCJ) jail the largest jailer in the U.S. and the world, the jail has provided much lauded “gender-reform” over the last three decades, offering a self-segregated gender jailing unit for gay and trans women incarcerated (named K6G, formerly K11).<sup>40</sup> K6G has been an operative and designated wing since 1985. These units were intended, like current 2-billion dollar contested plans to rebuild MCJ jail and build additional women’s prison, to make existing jails and prisons “better and safer.” The advent of K6G stemmed from a 1982 ACLU

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<sup>39</sup> Harney, Stefano and Fred Moten, p.26.

<sup>40</sup> General population at MCJ has averaged in the last few years from 17,000 to 22,000 people on any given day, and K6G, as the only self-segregated gay and transgender women’s jail in the U.S., is reported as housing the largest population of gay and transgender women nationally.



lawsuit brought upon the jail on behalf of “homosexual inmates” due to threat of sexual and physical violence faced when placed in general population of the jail. Russell Robinson describes the very policing of gender norms inside of prisons as a part of the structural problem that incites interpersonal sexual violence on top of structural gendered and sexual violence, noting:

...the Jail’s screening policy constructs gay and transgender identity in a narrow, stereotypical fashion and excludes some of the most vulnerable inmates. [...] The targeting of transgender and gay inmates for sexual assault emerges from a broader regime that valorizes an idealized form of masculinity and polices the gender performance of all people.<sup>41</sup>

Robinson centralizes the damage that post-racial, white gay conceptions of homosexuality can reinforce and normalize through the process of entry into K6G. Not only must those incarcerated perform particular white-centric conceptions of homosexuality and masculinity, defining who truly deserves to belong in K6G, these logics actually create situations in which sexual violence outside of these assumptive roles of heterosexual “predator” and homosexual or transgender “victim” will then be elided. Research expert and advocate of K6G Sharon Dolovich writes, ‘I recognize that this enterprise [advocating for K6G] may expose me to the charge that, by seeking the means to improve carceral conditions, I may only be further entrenching a fundamentally illegitimate penal system.’<sup>42</sup> Victoria Law describes such “pinkwashing” prison reform as “carceral feminism” that erases “the ways in which race, class, gender identity, and

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<sup>41</sup> Russell K. Robinson, *Masculinity as Prison: Sexual Identity, Race, and Incarceration*, 99 Cal. L. Rev. 1309 (2011). <<http://scholarship.law.berkeley.edu/californialawreview/vol99/iss5/3>> 1354, 1313.

<sup>42</sup> Sharon Dolovich, *Two Models of the Prison: Accidental Humanity and Hypermasculinity in the L.A. County Jail*, 102 J. CRIM. L. & CRIMINOLOGY 965 (2013), 978.

immigration status leave certain women more vulnerable to violence and that greater criminalization often places these same women at risk of state violence.”<sup>43</sup>

Such gender-responsive and restorative reforms fail to strategize against the penal institution to redirect power to those the very reforms claim to be most indebted to. Further, the conditions of overcrowding, confinement, noise, light and air pollution, and micro to aggressive health pollutants and a state of constant hostile surveillance and authority—whether one enters with notable mental health issues or not—the conditions of MCJ, like all jails and prisons in general, only provoke intensification and exacerbation of one’s state of vulnerable mental health. The unit of K6G is not impervious to the exact same damning conditions. The self-segregated gay and transgender unit not only mirror conditions of the larger jail, celebratory coverage of K6G “safety” like LA Weekly’s 2014 digital video and article “In the Gay Wing of L.A. Men’s Central Jail, It’s not Shanks and Muggings but Hand-sewn Gowns and Tears” therefore overshadow more insidious issues of sheriff abuse, mental health negligence, and lack of access to transgender health resources, programming, law library and other forms of basic health care.<sup>44</sup>

Another missed call from area code 713, Houston, Texas. This area code I usually associate with my mom or Taiwanese family who immigrated to Houston in the early

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<sup>43</sup> Victoria Law, “Against Carceral Feminism Relying on state violence to curb domestic violence only ends up harming the most marginalized women” October, 17, 2014

<<https://www.jacobinmag.com/2014/10/against-carceral-feminism/>> For more please read: Dulani, Jai, Ching-In Chen and Leah Lakshmi Piepzna-Samarasinha, eds. *The Revolution Starts at Home: Confronting Intimate Violence Within Activist Communities*. Brooklyn, NY: South End Press, 2011.

<sup>44</sup> LA Weekly “In the Gay Wing of L.A. Men’s Central Jail, It’s not Shanks and Muggings but Hand-sewn Gowns and Tears”, <[http://www.kcet.org/shows/socal\\_connected/stories/government/life-behind-bars-for-gbt-inmates-at-the-k6g.html](http://www.kcet.org/shows/socal_connected/stories/government/life-behind-bars-for-gbt-inmates-at-the-k6g.html)> Accessed Dec 22, 2015.

1990s to do restaurant and importing in the wholesale district of Harwin Drive. This community of mostly east Asian wholesalers both invited Black patrons and small business owners but also openly surveilled and feared any Black social life in excess of familiar trusted customers. This 713 call however was not family, but another call brokered by Global Tel\* Link (GTL), the telecommunication “corrections innovations leader” for the last quarter century in North America, leader in the annual 1.5 billion dollar “inmate calling service” (ICS) industry.<sup>45</sup> One of GTL’s main sites for data backup is outfitted in Houston, Texas, hence the dispatched 713 area code.<sup>46</sup> These 713 calls are a reminder of the messy entanglements of my own privilege accumulated from relationships of racial capital, I on the receiving end of the call, safely outside the jail. A phone call to the outside is sometimes a lifeboat for those inside, an assurance that there is a world outside the cages that still witness and remembers the life inside that is told repeatedly it does not matter.<sup>47</sup> When those incarcerated are placed in solitary confinement or resulting in “altercation” with a “peace officer,” privileges are almost always revoked or restricted. Phone calls act as an imperfect but necessary tool, a means to report abuse, violence, mistreatment and pressure for accountability almost exclusively requires external actors and agencies. With risks of phone calls being audio recorded,

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<sup>45</sup> Founded in Mobile, Alabama in the 1980s, GTL serves over 1.3 million people incarcerated whom, with imposed irregular access to phone use, attempt to reach their loved ones, support systems, someone outside the jail, the prison, the precinct, the detention facility etc. GTL, a private company, holds over 650 ICS public contracts with the government.

<sup>46</sup> Missed calls means automated messages in the voicemail inbox that read, “A phone call from [name]... An inmate in the Men’s Central Jail. . .to accept this call press zero, to refuse this call, hang up or press one ... your call was not accepted... please try again later.”

<sup>47</sup> GTL wants us to believe they are providing us an extraordinary service and that they want us to stay connected at all costs, costs that even the Federal Communication Commission has had to reform via rate caps per minute (from highs of \$14 per minute to 11 cents per minute).

manipulated as “self-incriminating” evidence, or possibly provoking officer retaliation, the only other existing legal channel to pursue sheriff accountability are “in-house complaint forms.” Such “in-house” internal processes offer only much uncertainty as those incarcerated permanently inhabit a place of already of “guilt”, a debt always to be paid while in jail.

As a collective support team of friends, family and community members in Los Angeles, the shared goal of the team has been to support several transgender and queer of color community members inside K6G. Identifying too as mostly all queer and trans\* people of color with different sets of privileges, this small collective support team of about ten people organized around a teams of core coordination, legal support, spiritual/mental health, fundraising, and lastly a larger community support network. Identifying as well as community organizers, abolitionists, artists, mothers, siblings, queer poly family, comrades, our roles fluctuated greatly over the last year depending on drastically shifting demands resulting from the extreme precarity of those inside. The collective team primarily worked on raising legal fees, scheduling consistent visitations, appearing for court support, writing letters and holiday cards, sending in jail-permissible books, alleviating attempts at self-harm and suicide, raising money weekly for commissary, depositing money in person, trying our best to receive phone calls, building strategies around their safety inside against staff hostility and abuse, mental health negligence, alleviating more attempts at self-harm and suicide, advocating for proper hormone replacement therapy and countering all levels of violence faced in being locked in a cage and or desolate solitary confinement. The collective team, in an effort to counter

reported abuse, sought whatever assistance was at our disposal, resources like the Los Angeles County (LAC) Office of Inspector General (OIG), a body said to offer “independent and comprehensive oversight, monitoring and reporting” over the Los Angeles Sheriff’s Department (LASD).<sup>48</sup> The OIG was created as a department under the county board of supervisors, primarily overseeing the Men’s Central Jail (MCJ) and Twin Towers, one of the largest de facto mental health facilities in the United States and the world.<sup>49</sup> The OIG is limited in their power to interrupt the “investigative function” of the LASD. Further, the issue of investigating “peace officers”, the official euphemism for sheriffs and deputies inside the jail, is further protected by clauses safeguarding employee personnel files as privileged and confidential information. In other words, even if a officer is reported, and most likely to a “civilian” outside the jail about an experience of abuse, both the OIG and community advocates are left with very little power to even *look into* the reported abuse.

In K6G and Men’s Central Jail, if someone is being harassed by a “peace officer”, and is forced to defend themselves verbally or physically, or any inaction or action that does not register as complicity or complete submission at the discretion of the officer, the individual can be penalized for belligerence. In other words, physical force, however

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<sup>48</sup> For the Ordinance 2014-0034 that created the OIG as a dept of Board of Supervisors in Los Angeles County, Please see: <<https://oig.lacounty.gov/Portals/OIG/Reports/Certified%20OIG%20Ordinance.pdf>> (accessed January 29, 2016). For more on the criticism to go beyond an OIG please see reports published by Dignity Power Now, particularly <<http://dignityandpowernow.org/wp-content/uploads/2014/11/CRBreport2014.1.pdf>> , DPN notes, “The OIG cannot, alone, keep a bright spotlight on the implementation of needed reforms of the LASD. On its own, the OIG will not provide a forum for visible public hearings, which can be an invaluable tool for exposing problems and engaging LASD leadership in a dialogue about the status of reform.”

<sup>49</sup> . Twin Towers is considered one of the top two largest mental health care facilities in the U.S. are both jails, Twin Towers and Rikers Island in New York. For more info: <[http://dignityandpowernow.org/wp-content/uploads/2014/11/CERD\\_Report\\_2014.8.pdf](http://dignityandpowernow.org/wp-content/uploads/2014/11/CERD_Report_2014.8.pdf)>, (accessed January 20, 2016).

excessive, is a legitimate means to force submission of those, whom they judge, as “resisting” or in noncompliance. If the incarcerated person resists or defends themselves because they believe what the officer is doing is unfair, excessive, or simply is reacting instinctually to being violated, from the moment of violation through disciplinary hearing to the discipline itself, a testimony of an incarcerated person is never considered more valuable, more technically accountable to justice, than one of a “sworn officer.”

Accountability in the case of violence inside the jails and prisons, cannot ever be won by those already seen as having been in violation to, discredited from, and committing an injustice to the system of justice (“criminals”, “perpetrators”, “inmates”, “prisoners” as already less than). When such disciplinary actions are taken, the incarcerated individual is likely thrown into solitary confinement and revoked of all privileges. This is an example of very typical “order” and “discipline” by officers asserting their authority and masculinity— not to mention the outright sexual abuse, violence and verbal degradation that occurs between law enforcement and most frequently those policed at the intersections of gender, race, sexuality, class and citizen-status. Over the course of ninety days our collective team attempted to get the Los Angeles Office of Inspector General involved in overseeing what could only be described as excessive force on our community members inside. Not only did this form of internal accountability fail to offer any possibilities for relief of harm done, but also every oversight process correctively tracking policy and procedure is first and foremost produced and controlled by the LASD. Tracing the paperwork, the officer reports, the review board report assessing the “alleged” abuse, was a orchestrated production fully overseen by the sheriff’s

department, thus any potential investigation by the OIG required the timely cooperation from LASD which they simply would not receive. We learned that if the LASD decided to be accountable to disciplining an officer for use of excessive force, the case would be referred to their office of Internal Affairs, and as outlined in their police union contract, would become a fully confidential issue between employee and employer. As Los Angeles County Sheriff's department and jail is under federal investigation by the U.S. Department of Justice, meanwhile attempts to address issues such as overcrowding propose only more jail construction. Attempts to account for injustices through extensions of the criminal system present only a side shuffle, a horizontal mutual exchange of power. Not only does the role of the OIG fail to enact even an inexact performance of justice, current external oversight of LASD simply has no interest in moving power away from itself, rather it is to have the power be harnessed more effectively. Accountability via the OIG would only ensure that LASD perform more productively according to the rules and policies already in place, none of which have any interest in defining safety beyond degrees of more or less punitive discretion (excessive force or just regular force). OIG is accountable most directly to its underwriters, the county board of supervisors, and its ability to have as little to no interference on the LASD to investigate itself (its staff, officers and inmates).

In an ongoing fight to shuffle power from the bottom up, Los Angeles grassroots community organization Dignity Power Now (DPN), formerly the Coalition to End Sheriff Violence in Los Angeles Jails (C2ESV), who have been consistently building coalition and campaign, through research, reporting, organizing and working groups led

by formerly incarcerated staff and organization members, have over the last three years fought for the implementation of a law enforcement-free civilian review board (civilian oversight commission) with legal subpoena power. Demanding an oversight body constituted by exclusively formerly incarcerated individuals and family members, DPN has been willing to play “by the books” of the criminal justice system in order to attempt to reduce violence upon those incarcerated. Their overall strategy has been to shift the discourse and channels in which power and resources are located from the state to those in community most directly impacted— quite literally with a refusal for the civilian review board to represent any former or current law enforcement. Further, DPN’s work continues to centers a structural analysis of the material conditions which produce “criminality” as poverty or mental illness. DPN’s strategies aimed to reform the criminal justice system still refused to allow reform be only performative, demanding instead redistribution of power to those most impacted, an example of abolitionist reform within a transformative justice framework.<sup>50</sup> In early 2016, Mark Anthony Johnson, then director of DPN, spoke out at a Los Angeles County Board of Supervisors meeting in which they granted the permission of former law enforcement to serve on an oversight commission that was to be filled with civilians.

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<sup>50</sup> In a 2014 report “Impact of Disproportionate Incarceration of and Violence Against Black People with Mental Health Conditions in the World’s Largest Jail System” Dignity Power Now writes: “Severe overcrowding in LA County Jails has harshly impacted prisoners with mental health conditions subjected to what a recent U.S. Department of Justice (DOJ) investigation described as “dimly lit, vermin infested, noisy, unsanitary, cramped and crowded” conditions. Due to lack of capacity and overcrowding, over a third of the 3,200 people identified as having a debilitating mental health condition are housed in the general jail population rather than in a dedicated mental health facility. Dignity Power Now. 2014 “Impact of Disproportionate Incarceration of and Violence Against Black People with Mental Health Conditions in the World’s Largest Jail System” A Supplementary Submission for the August 2014 CERD Committee Review of the United States. <[http://dignityandpowernow.org/wp-content/uploads/2014/11/CERD\\_Report\\_2014.8.pdf](http://dignityandpowernow.org/wp-content/uploads/2014/11/CERD_Report_2014.8.pdf)>, Accessed January 20, 2016.



Mark-Anthony Johnson called out the multilayered proposition being put forth by the county supervisors, stating:

Why would we consider and even entertain former law enforcement being on this commission?? That is a dangerously problematic proposition. We spent SIX months in the working group process, where the A.L.A.D.S. (Association of Los Angeles Deputy Sheriffs) representatives said to us that discriminating against law enforcement is THE SAME THING as discriminating against Black people! Why would these supervisors align themselves with that analysis?<sup>51</sup>

This logic of inverted discrimination against the police, as a veritable embodiment of personhood and not a social role of state-funded public service, has gained much traction to the effect of #PoliceLivesMatter and #BlueLivesMatter against to assertion and movement of #BlackLivesMatter. Such logic discourages evaluation or even critical thought, opinion or any level of even modest criticism of law enforcement as anything less than supporting enforcement of justice. Anything less, by this very popular logic, ought to be simply unthinkable on our part. The county board of supervisors indeed aligned themselves with such a logic because they are there, shamelessly, to serve the interests of their body, to reproduce if not seeking expansion of state power. The civilian review board in other words could never *actually* exist, as long as they oversaw it. “Community” in other words, was just as flexible a term as “oversight” or accountability. What community could not mean was a legitimate avenue to expand power for those most directly impacted by jailing, and instead only could offer flexible self-regulating performances of accountability.

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<sup>51</sup> Mark-Anthony Johnson, Director of Health and Wellness, speaking at L.A. County Board of Supervisors meeting January 12 2016 <https://www.facebook.com/dignityandpowernow/> (accessed Feb 20, 2016).

Humaneness within a jail, or humanity through jailing, is an accounting for what can be added what must be reduced for a population deemed less than human. You can add more public funding for the expansion of the jail, but the exchange is that you must reduce overcrowding. This type of infallible and perfectly inexact math tells us nothing about improved conditions or conditional improvement, and only promises to improve the penal systems ability to continue jailing. A different formula and transformative accounting might instead insist that one can add more community-based resources such as education programming inside, but must promise to offer even more housing and living wage programming for those on parole or probation. Like the term “harm reduction”, the analysis of what can be done in the *meantime* is a quick cost benefit analysis, where suffering now must be addressed and other sufferings, perhaps those unregistered, unwitnessed or unaccounted for simply are not a part of the equation. Short of the full belief that redirecting all current funds used to sustain K6G could be place it into community-based services of housing, healthcare and livable wages would be possible in our lifetimes, knowing the failures and violence of the criminal justice system sometimes is not enough to rock the faith for those who remain loyal to its constant state of (dis)repair.

*Instrumentalizing Love, Towards Accounting for One Another*

Affective labor, trauma, grief, loss and yet love make up some of the non-things that cannot ever be sufficiently accounted for by way of state-based justice. Even the most illustrious and holistic forms of justice cannot fully witness such life matters. The stuff

that most of us in our entire lives—the 2.2 million in prison, jails, detention centers, not included— will never have to account for, are the feelings of sitting in a cage for 23 hours of the day, for years, awaiting trial, a lifetime without parole. Justice as a process and or objective will continue to perform “Truth” and naturalizes *the state as being*, and such a justice will continue, however modified in intensity, to require punishment and debt to the state. Such carceral debt offers intergenerational trauma and life insecurity towards premature death (eg; capital punishment, life without parole, carceral time) particularly for Black, indigenous, latinx, immigrant, jobless, houseless, gender nonconforming and undocumented communities. State to police accountability, even as it is criticized and reformed, remains a means to address corruption or inequity of such systems, and at best promote and restore performance productivity. Reform measures aimed to ensure a penal systems ability to do a better job can only do just that, penalize better.<sup>52</sup> When we think of what *works* for people inside jails to get free or get care, it is almost always family members, friends, loved ones and other community members that assist in their survival, their ability to get out, remain out, heal and be—what has largely been called “community-based solutions and resources.” Solutions through punitive legislation only fetishize and recriminalize un-safety on the inside as hot button issues mandating further state protection for some while doubling state criminalization for others. Such criminal expansive reforms only reproduce structuring logics of what is and is not classified as sexual violence to state violence. Such logics create even a dangerous

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<sup>52</sup> Prison reform as addressing and redressing the system in different skin. “We must be mindful of old snake in new skin” Mumia Abu Jamal, <<http://www.prisonradio.org/media/audio/mumia/centuries-struggle-big-house-prison-blues-954-mumia-abu-jamal>>

cleave between state violence and sexual violence, as if the former does not mediate the latter. Gender-reform in prison does not offer a means to more correctly restore life, rather, it models the possibility for the carceral state to both expand its institutional and material power and authority.

Advocating for any unit of jailing, even if segregated, and not simultaneously advocating for the abolishment of the entire system leaves room for further seduction into the expansive prowess and more post-racial skin of the criminal justice system. These contradictions must exist conterminously if indeed we are to account for any degree of destruction such a penal system has had, not only on those most directly impacted, but on our imaginations for a world beyond justifying death as collateral to an “objective” justice. Restorative justice practices continue to hinge on processes of discovering objective truth, offering a conceptual closure for the victim in order to restore the loss done against person(s) and community. Even at its best, a reformatory restorative justice might reduce some kind of harm done, with the participation of the voluntary sector shadow state, but can only replace it with another harm—albeit in different capacity, tonality, intensity. Jin Haritaworn writes, “Besides understanding the close relationship between criminalisation and pathologisation, across multiple formal and institutional sites, an abolitionist imagination might also involve attending to the way punitive and pathologising logics undergird informal sites, including those who that identify as alternative, radical or progressive.”<sup>53</sup> These are the abolitionist sentiments many neoliberal NGOs, nonprofit organizations, social science and even social justice

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<sup>53</sup> Haritaworn, Jin. 2015. *Queer Lovers and Hateful Others: Regenerating Violent Times and Places*. London, UK: Pluto Press.

researchers are unwilling to tow, or at least critically imagine in real time and in real practice. We do in fact reduce the harm for those inside through abolitionist reform strategies paired with everyday uplift of the labor and community resources it takes to dislodge one prison brick at a time. Family and loved ones of those inside imagine and practice this harm reduction creatively and collectively, and this supporting this work can regenerate power elsewhere away from material, ideological, and discursive expansion of a shadow state. Gender sensitive and sexuality-based recommendations, like the ones brokered from the ACLU, LAGLC and entities like the Transgender Law Center, are, in proposal and intention, aimed at serving, first and foremost, the community most impacted by policing and prisons. However, such partnerships don't always achieve a redistribution of power from state concentration. However, this does not abolish the need for critically engaging such reforms, instead with intent to serve the survivors, like restorative justice, how might this service transform into a remedy against logics that measure more and less worthy victims, "to reinforce our tenuous right to exist by undermining someone else's"?<sup>54</sup>

When the survivor became exclusively the victim, particularly in a duality of victim to perpetrator/offender/criminal, this is when restorative justice became, as Joseph describes, a focus on social relations and not structural ones. Transformative justice is largely principled on social relations as grounded and conditioned by its structural relations of dominance, what Joseph describes in terms of alternative modes of

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<sup>54</sup> Bassichis, Morgan, Alexander Lee and Dean Spade, "Building an Abolitionist Trans and Queer Movement" in ed. Stanley, Eric A. and Nat Smith, *Captive Genders: Trans Embodiment and the Prison Industrial Complex*. Oakland, CA: AK Press, 2014.

accounting for injustices, “tracing dialectics of abstractions and particularities.”<sup>55</sup> This can be understood as, similarly, a dialect between the interpersonal and the structural.

Restorative justice, against a narrative of ruthless individualism, largely focuses on interpersonal wrong that has harmed a relationship within community, a wrong that can be restored.<sup>56</sup> What transformative justice reminds us is the interpersonal is always conditioned by structural violence, often violences that are perpetually inchoate, normalized, reforming and embodied as a choice between “worst or even worse options.” Transformative justice allows us to imagine a world beyond accounting and repairing order through the likes of broken windows, a world not yet here but yet here.<sup>57</sup>

Transformative justice, like restorative justice, can too become a tool enclosed to service the criminal justice system— at the end of the day any idea can be abstracted, proffering only illusions of life as *made* possible, a life unbecoming. However, it is remembering collectively that we are still, against odds, learning, pushing and transforming the language and sensations of life *as* possibility. Whether “deserving to live” or “deserving death penalty”, no one deserves anything and everything all at the same time. This life,

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<sup>55</sup> Joseph, 60.

<sup>56</sup> Overtime, restorative justice has become integrated into juvenile court systems and K-12 public schools in order to reduce the structural impact of the aggressive policing of youth of color in large metropolitan cities. Restorative justice in these cases, for instance, have replaced police officers in schools with community patrols or peace officers. For transformative justice alternatives, please see Project NIA, Chicago Transformative Justice, Fall (October-December 2013) curriculum available online at: [https://niastories.files.wordpress.com/2013/08/tjcurriculum\\_design\\_small-finalrev.pdf](https://niastories.files.wordpress.com/2013/08/tjcurriculum_design_small-finalrev.pdf)

<sup>57</sup> Fred Moten in a dialogue with Robin Kelly and Maisha Quint, concludes:

“To fix a broken window, is to fix another way of imagining the world, to literally fix it, destroy it, to regulate it, to exclude it, to incarcerate it, but also at the same time to incorporate it, to capitalize upon it, to exploit it, to accumulate it. This state can’t live with us [Black life] and it can’t live without us [...] the broken the window, the alternative unfixed window through which we see the world, is not just the way in which we see something that doesn’t exist, but its also the the way we see and imagine that which does exist. Its important to imagine how things might be otherwise, but its also really really important to understand and see who and what are right now.” Moten, Fred. *Robin DG Kelley and Fred Moten in Conversation Critical Resistance*

only certain in its vastness to be unaccounted for, is already here, we can however know new ways to hold onto it more fully, together not apart.

Whether it be a process of community accountability or state-based accountability from intimate partner violence, law enforcement or state violence, the terminology and conception of accountability invokes a formal sense of due process that seeks to address harm or injustices. However, if accountability, like justice, is prefigured and predetermined in a liminal space that is only respondent to those already in power, then perhaps accountability can only reduce harm (harm-reductive) to a point, if that. Accountability as entrapped in carceral modes of reform cannot be transformed as the very fixed foundational premise of law is its ability to administer state-sanctioned violence. The motion of reform, is to re-form, where the very prefix of *re-* |*rē*|, connotes “again”, “go back”, “once more”, to a previous state. Notions of justice, freedom and citizenry, from conservative right to democratic left, continue to be elicit a sense of making ‘better’ and re-forming a nation in order to move forward beyond the ‘sins of the past,’ a process of bettering that somehow capaciously can both “Make America Great Again” and presume the critical importance of tracking and prosecution of hate crimes as the best defense against minority-targeted violence. As the prefix of *trans-* |*træns-*| in *trans-form* is literally to go “across”, “through”, “beyond” or “to another space,” how then might we consider the intervention of *trans-formation* to a closed cycle of re-formation, and yet remain vigilant to the obstinacy and reproductive capacity of state power of neoliberal governmentality? This is to say, as the very act or processes of reformation and or transformation do not guarantee a change away from the

necropolitical, world of living as defined by death and death-making practices. How then might accounting for the impact and desire for ‘symbolic inclusion’, legal legibility and carceral reform allow us to more collectively be moved by, in motion, worlds beyond the necropolitical yet not defined by the re-vision of the necropolitical? C. Riley Snorton and Jin Haritaworn writing in “Trans Necropolitics”,

On October 28, 2009, United States President Barack Obama signed into law the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which expanded on previous, similar legislation to include gender identity among other “protected categories.” The Act is the first federal law to extend legal “protections” to transgender people. In addition to giving federal authorities greater ability to pursue hate crimes enhancements for bias-motivated violent crime, the law also required the Federal Bureau of Investigation (FBI) to collect data on hate crimes perpetrated against transgender people. As Dean Spade has written, support for such legislation is shored up by advocates’ desires for a symbolic declaration of societal/governmental inclusion, which also increases the positive visibility of transgender people (Spade 2009: 356). Hate crimes laws thus legally articulate the value of transgender people’s lives, even as this articulation of inclusion is produced by and through their deaths.<sup>58</sup>

Not only is it this “murderous inclusion” of anti-transgender violence into the national body of crime data, Snorton and Haritaworn ask us further to consider the ways in which trans death, particularly the afterlife of trans\* women of color’s death, have become the raw material that begets the possibility of trans subjectivity as respectable national subject as formed by its legal legibility, and vice versa. Before there was the official legible protected category of “transgender” as marked federally and nationally recognizable in 2013, solutions prior for intervening on or preventing gender-identity violence was no better or worse off. To this day, the same can be said, other than the

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<sup>58</sup> Snorton, C. Riley, and Jin Haritaworn. “Trans Necropolitics: A Transnational Reflection on Violence, Death, and the Trans of Color Afterlife.” In *Transgender Studies Reader 2*, ed. Stryker, Susan and Aizura, Aren Z. New York: Routledge, 2013, 66–76.



numerical marking, of interventions to trans\* death or anti-trans\* violence. In other words, simply because some-things are accounted for does not make it accounted for.

Another category under the organizing rubric describing victim identity by the FBI and other leading participating local agencies like the LAPD, is the use of the remarkably opaque category of “multi-bias incidents” (MBI) or “an incident in which one or more offense types are motivated by two or more biases.” Annually MBIs have remained in the single-digits for all nationally participating agencies (With LAPD leading the way)<sup>59</sup>. In the year 2013, the first year in which the FBI reports and publishes “Gender Identity” as a category of victim under their hate crime data report, ‘anti-transgender crimes’ are logged as twenty-three and ‘anti-gender non-conforming crimes’ at a total of eight. In 2014, a year after the first pilot year for these new categories, anti-transgender crimes rose to fifty-eight, and anti-gender non-conforming to forty. Additionally, multiple-bias incidents rose to seventeen. In the following year of 2015, anti-transgender crimes rose to seventy-three, and anti-gender non-conforming to forty-one. Additionally, multiple-bias incidents rose to thirty-two. In some ways, this narrative commands a response of shock to the recorded rise of anti-transgender, GNC and MBI violence, but clearly with the new legal inclusive protected category, training, comprehension and diversification of categories of victims of crimes have both added to the rise of numbers in new categories. However, how does accounting for these numbers tell us anything about the conditions of peoples lives, survivors or families of those dead, who are left to deal with the wake and grief of such violence? Further, the expansion of

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<sup>59</sup> For example, it is reported 4, 6, 6, 6 incidents annually from, respectively, 2010, 2011, 2012 and 2013.

diversification of categories to ‘gender-based victims’ coincided with the corrective inclusive designations of race and ethnicity categories for not only victim, but offender crime data as well. The FBI states:

In 2013, the national UCR Program began collecting revised race and ethnicity data in accordance with a directive from the U.S. Government’s Office of Management and Budget. The race categories were expanded from four (White, Black, American Indian or Alaska Native, and Asian or Other Pacific Islander) to five (White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander). The ethnicity categories changed from “Hispanic” and “Non-Hispanic” to “Hispanic or Latino” and “Not Hispanic or Latino.”<sup>60</sup>

The assumption of more inclusive ethnic/racial categories portends to tell us a narrative of a more politically correct picture of both victim and offender—the reform of “Black” to “Black or African American”, ‘Asian or Other Pacific Islander’ to “Asian, and Native Hawaiian or Other Pacific Islander” and similarly “Hispanic/Non-Hispanic” to “Hispanic or Latino/Not Hispanic or Latino.” The only category that remains the same is the monolith White. The curiosity here is in the elision of gender as a category for offender, whereas “age, race, ethnicity” are assumed as necessary particular attributes that allow for the assessment of distinguishing the designation of resources for better crime prevention and better modes of penalizing the correct types of offenders. The category or description of gender of such offenders is not included for offenders, perhaps because, like the category of white, it is without a need to iterate or make more particular, because it remains a control for its own meaning. That is to say, patriarchal violence as administered by cis-gender men is not notable, however the racial and ethnic identity

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<sup>60</sup> FBI Uniform Crime Report, Hate Crime Statistics Victim Summary, 2015, accessed May 31, 2017, <https://ucr.fbi.gov/hate-crime/2015>.

markers is, as it makes the offender and the offense more ‘knowable’ and more locatable for future risk management through population and crime control.

Resistance to otherwise expectations of unquestionable loyalty and participation in favor of strategies of *knowing* crime through penalty-centered rubrics of knowledge production such as hate crime data, Che Gossett describes an alternative to such citing a powerful transformative justice-centered community survey by Philadelphia abolitionist collective “Hearts on a Wire.” As a then unnamed survey was sent out to trans\* and GNC people incarcerated to provide first-hand testimonies of their experiences inside, the report was eventually finalized and inspirationally named after an actual returned piece of glitter-filled mail stamped with, “This is a Prison, Glitter is Not Allowed.”<sup>61</sup>

Che Gossett describes this as materially and ideologically hallmarking the very, “anti-fabulousness and deadly *telos* of the prison regime, its threat to and destructive agenda for queer, transgender and gender non-conforming people of color and our communities.” Glitter is not allowed in mail as it trespasses the boundaries of the jail or prison with far too many illuminating contraband particles that cannot be accounted for—too many to check, to surveil. But perhaps too it is also contraband given the excess of glitter—glitter as already plural—as that which is uncertain, a semblance of an ineffable yet refractory elsewhere. This chapter concludes only as an opening for considering the ways in which that which refuses to be formed, ordered and arithmetical towards a probability, cannot

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<sup>61</sup> Emmer, Pascal, Adrian Lowe, and R. Barrett Marshall, “This is a Prison, Glitter is Not Allowed: Experiences of Trans and Gender Variant”, Hearts on a Wire Collective, 2011.

then be re-formed or accounted for only in ways that services the bio and necropolitical deadly *telos* of prisons and carceral logics. “Glitter Not Allowed report concludes,

We must work to prevent the violence prisons inflict upon T/GV [trans/gender variant] individuals and support our incarcerated community members to survive. However, these immediate needs must be addressed with the understanding that prisons themselves cannot be used for productive or non--violent ends. By creating this report we have taken a modest step toward documenting that fact. We hope this report stirs our collective imagining of a broad definition of community safety, replacing the cycle of incarceration with one of transformative justice.

The motion of ‘stirring’ perhaps is a call to be spirited and moved, into motion, a diving into an excess of forbidden glittered incalculable matter—to disturb and go beyond the confines of predetermined forms of justice we know now. That is, how might we transform against and away from reforming bounded and deathly ideas and spaces of the securitized con-forming trans(national)gendered subject as victim?

## CHAPTER I

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## II. Mythologies of Inclusion: When One is Already Too Many

*In order for police to be effective, they need to understand that we're part of the community, not just policing the community.*

—Richard Odenthal, former Captain of West Hollywood Division LASD, Public Safety Manager, City of West Hollywood<sup>1</sup>

*LAPD SAFE PLACE was modeled after the Seattle Police Department (SPD) program and is designed to further enhance the relationship between the LAPD, the LGBTQ community and local businesses by providing LAPD SAFE SPACE decals and signage to local businesses and organizations and encouraging those entities to clearly post them at the entrances to their premise as a symbol of safety for the victims of LGBTQ crime and a warning to those who commit those crimes. LAPD SAFE SPACE also provides an instant and easy link to LAPD and other LGBTQ resources.*

—Assistant Chief Beatrice M. Girmala, Senior Lead LGBT Officers Jules Sohn and Ian Lewis and the Los Angeles Police Department Community Relationship Division<sup>2</sup>

### *To Manage Risk as a Polity of Inclusion*

Los Angeles County and city stand as complex political geographies that have been upheld as the model for LGBT-friendly policing and imprisonment reform while simultaneously leaving systemic issues of transgender violence, racism, and poverty unaddressed. Los Angeles County, like California, has historically served as a national blueprint for addressing bias-motivated violence through investments in LGBT and diversity-sensitive law-enforcement trainings, county agencies such as the Human Relations Commission (established 1958), and expanding technologies of policing and imprisonment such as the KG6 unit, the gay wing of the Men's Central Jail (formerly K-11, established in 1985). How exactly has LGBT and antiracist legal, prison, and police

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<sup>1</sup> Amnesty International report, p.143

<sup>2</sup> From "Los Angeles Police Department Safe Place" from LAPD Online, Accessed May 2, 2017, <[http://www.lapdonline.org/inside\\_the\\_lapd/content\\_basic\\_view/61375](http://www.lapdonline.org/inside_the_lapd/content_basic_view/61375)>

reform existed conterminously, if at all, with the more transformative approaches that invest in immediate community responses and needs to reduce identity-based violence and harm? How does such daily and long-term violence in its irregular documentation continue to exceed the promise of protection via law enforcement intervention while being already targeted as criminal (sex work/trade, formerly incarcerated, undocumented, houseless, critical mental health, substance use, Black, gender nonconforming, disabled, etc.)? At what costs and with what tensions do we lead when investing in hate-crime activism or even when asking for inclusion into these terms? What forms of survivability are made possible through these avenues? What forms of survivability make the existence of tactics of inclusion and reform negotiations? This chapter reviews various historical, legislative, and policy moments in which California generally and Los Angeles specifically became premiere sites for enshrining what we now could call the industry of hate-crimes production and reform, particularly in terms of explicit inclusion of sexuality and gender (LGBTQ) as legally-protected identities. In addition, alongside this examination, this chapter will unpack some of the theoretical ideological, ontological, and epistemological underpinnings that continue to haunt transformations of the criminal justice system via rights-based and juridical inclusion and strategies that fail to see solutions outside of the reproduction of state power and its institutions.

As early as 1984, California became the first state to officially implement laws specific to bias-motivated crimes against sexual orientation—so called “hate crimes.”<sup>3</sup>

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<sup>3</sup> “What Is a Hate Crime? ... bias-motivated crimes, defined as offenses motivated by hatred against a victim based on his or her race, religion, sexual orientation, handicap, ethnicity, or national origin. While such a definition may make identifying a hate crime seem like a simple task, criminal acts motivated by

The 1994 Violent Crime Control and Law Enforcement Act (VCCLEA), the largest crime bill in the history of the United States, created platforms like Community Oriented Policing Services (COPS) in an attempt to reduce crime through what is termed “community policing.” Community-driven efforts to fight violence are largely disregarded by COPS strategies, policies, or research.<sup>4</sup> Instead, the focus remains on the expansion of policing, methods of criminalization, and incarceration. Through compilation of national statistics on hate violence against statewide and local statistics, my dissertation centers what cannot be told through COPS research, mandated hate crimes databases, and even DOJ-funded community-driven reports from the National Coalition of Anti-Violence Programs (NCAVP) spanning the years 1998–2014.

In reviewing the annual reports of NCAVP, as noted by *Queer (In)Justice* in 2008, “Law enforcement officers remain one of the prime categories of offenders documented by NCAVP each year.”<sup>5</sup> According to a 2005 report from Amnesty International, “United States of America stonewalled: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the U.S.,” although the LAPD claimed to have implemented transgender-sensitive policing tactics, testimonies indicated that horrid abuses and violence still persisted, particularly against transgender women of

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bias can easily be confused with forms of expression protected by the U.S. Constitution.” Bureau of Justice Assistance, *A Policymaker's Guide to Hate Crimes*, December 1997.

<sup>4</sup> “The Office of Community Oriented Policing Services (COPS Office) is the component within the U.S. Department of Justice dedicated to the concept that trust and mutual respect between police and the communities they serve is critical to public safety... The COPS Office mission is to advance public safety through community policing.” <<http://www.cops.usdoj.gov/>> Accessed January 2, 2015.

<sup>5</sup> *Queer (In)Justice*, 129.

color.<sup>6</sup> who were racialized as criminals and whose gender was made suspect through logics of transphobic notions of impersonation and deceit, logics that, until recently, were enforced by the LAPD through anti-cross-dressing laws and that to this day are displayed in the high percentage of transgender women of color who are profiled and criminalized for survival sex work and for simply occupying public space. Amnesty International further promotes pink-washing reforms by the LAPD and LASD to enhance “community partnerships” with the LGBT community, noting,

AI is pleased to note that the West Hollywood Station of the LASD has a Gay and Lesbian Conference Committee, where, according to Sheriff Baca, anyone can walk in and participate. According to LASD officials, these are very effective, and allow them to stay in touch with community concerns. The City of West Hollywood in collusion with the West Hollywood Police Department has established a Transgender Task Force and Transgender working groups which addresses issues of policing, law enforcement interaction and issues of profiling and cooperation among others. Amnesty International believes that such models may be a good idea provided that communities are effectively represented by those selected to be on the board.<sup>7</sup>

These are progressive wins, and in the ten years from 2005 to 2015, such positions of representational and community partnerships as the Transgender Task Force are inevitably directed by the “partnership” with LAPD and LASD. That is to say, in creating positions from which to negotiate and reform local law enforcement, the priorities of community members and participants must fit into the heavily armed and state-funded priorities of law enforcement and be compliant with the heavy value placed on legitimating juridical systems and their brokers and beholders. A great amount of

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<sup>6</sup> Amnesty International, “United States of America stonewalled: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the U.S”, 2005.

<sup>7</sup> AI report, P.145

effort has been targeted toward reducing the harm of these penalizing systems; whether or not such efforts do contribute to harm reduction, they are still termed “gender responsive.” Likewise, and with the longstanding tactic of community law-enforcement liaisons with the LGBT community dating as far back as the mid-1970s, cooperation between parties also can be read as community cooptation.<sup>8</sup> This is to say, community events and community organizations that are forced into negotiations or placed into convenient state-mandated relations with law enforcement through permits for actions, events, and use of public spaces, are immediately and over time tasked with the work of training law enforcement, whether through interactions, survival, or through larger legislative and policy reforms via efforts from local partners such as the Transgender Law Center, Los Angeles Gay and Lesbian Center, and West Hollywood City Council.

Sociologists Kristina B. Wolff and Carrie L. Cokely conducted a study in 2007 of 1,896 incidents reported in Minnesota by GLBT agencies between 1990 and 2000. They write in *“To Protect and to Serve?”: An Exploration of Police Conduct in Relation to the Gay, Lesbian, Bisexual, and Transgender Community:*

While determining bias is challenging especially since the decision to do so largely resides with the officers at the scene, researchers have found that contrary to popular conceptions of police attitudes, the way decisions are made reflect the policies, practices and attitudes of officers’ supervisors (Engel and Worden 2003; Paoline et al. 2000; Terrill et al. 2003) thus suggesting an institutional, rather than an individual level problem. Therefore, there needs to be to continual outreach and education of officers and public officials on specific issues related to this

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<sup>8</sup> A counter-action hosted by LAQR and GJLA on November 18, 2015  
<<https://www.facebook.com/events/1700346596853930/>>, (accessed November 15, 2015)

community, as well as a system of oversight and accountability regarding police response to the needs of BTLG people.<sup>9</sup>

Although much of their data and study is based on the analysis of individuated instances and interactions, it was clear in their conclusion that such failures by individual law-enforcement agents were not the result of the bad apple theory, in which the issue is the aberrant, rotten cop, but rather were the result of the policies, practices, attitudes, and culture of punitive behavior that together value normative notions of citizenship and civility and are the backbone of such institutions.

Wolff and Cokely suggest continuing outreach, education, oversight, and accountability with law enforcement agencies, even in the face of a decade-long decrease in negative responses by law enforcement and the persistence of bias violence attributed to them. Such ongoing efforts to ensure that law enforcement abuse is seen, accounted for, correctly classified, and pursued as misconduct can extend the logics between which the ethics and failures of policing is articulated—correct conduct and misconduct, insensitive and sensitive, or responsive and unresponsive.

But is it even possible to advocate for the survival and well-being of those caught in the crosshairs of institutional and interpersonal violence, to reduce harmful interactions, while in fact not seeking simultaneously to reestablish the power, prowess, and commonsensical necessity of penal force via law enforcement growth, reproduction, and maintenance? In 2008, the NCAVP, which must often work against and in the shadow of federal crime data, affirmed in principal its opposition to the enhancement of

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<sup>9</sup> Kristina B. Wolff, Carrie L. Cokely “To Protect and to Serve?: An Exploration of Police Conduct in Relation to the Gay, Lesbian, Bisexual, and Transgender Community.” *Sex Cult* 11, no. 1 (2007): 1–23 doi: 10.1007/s12119-007-9000

penalties for hate crime convictions. In collaboration with participating LGBT organizations that work with local law enforcement across the nation, their action reduced the penal impact of hate-crimes legislation. As noted in *Queer (In)Justice*, in 2009, a coalition of antiviolenace LGBTQ people-of-color-led organizations, the majority of which were from New York City, including the Sylvia Rivera Law Project, FIERCE, INCITE!, Women of Color Against Violence, Queers for Economic Justice (QEJ), Right Rides, Transgender Intersex Justice Project (TIJP), made a public statement in opposition to the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act.

The statement reads:

What hate crimes laws do is expand and increase the power of the same unjust and corrupt criminal punishment system. Evidence demonstrates that hate crimes legislation, like other criminal punishment legislation, is used unequally and improperly against communities that are already marginalized in our society. These laws increase the already staggering incarceration rates of people of color, poor people, queer people and transgender people based on a system that is inherently and deeply corrupt.<sup>10</sup>

In this instance, no organization in Los Angeles was privy to this statement of endorsement. Many LGBTQ organizations in Los Angeles are tethered to the will of Los Angeles Gay and Lesbian Center (LAGLC) or direct social services, whether through funding, resource needs, or serviceable populations. This history of how LGBTQ populations in Los Angeles became both “serviceable yet unprotectable” is detailed in the work of Treva Ellison, who argues, through histories of nonprofit sector collusion with law enforcement and county agencies, that the crisis of policing was exacerbated by some of the very groups it was intended to address—those who held multiple identities of

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<sup>10</sup> Sylvia Rivera Law Project on Hate Crimes, accessed November 1, 2015, <http://srlp.org/action/hate-crimes>



marginalization, that is to say, those who experienced violence or negligence due to race, gender, sexuality, class, ability, or location. This concept of being left unprotected yet serviceable is incisively located in the growth of the nonprofit and social-service sector alongside the expansion of the law-enforcement agencies in Los Angeles County.

In an effort to give more context to literature and research on LGBTQ antiviolence activism, advocacy, and policy, a large part of the field is dedicated to the discussion of issues of intimate partner violence. The NCAVP dedicated an annual report to these issues alongside their annual report on bias-motivated hate violence. These issues indeed overlap, since much of the effort to change and reform law enforcement has been to avoid responding adversely, negatively, or negligently to domestic-violence disputes. However, these issues are far from understood as intersecting in terms of large federal funding streams via the Violent Crime Control and Law Enforcement Act (1994) and the Violence Against Women's Act (VAWA) (1994) that address such issues separately.

Much of the gender-inclusion reform toward having gender become a protected class under hate-crimes legislation has historically come from cisgender women's organizations. Even so, LGBTQ populations, which are placed in triple jeopardy when having to turn to, or are forced to reconcile with, law enforcement, are themselves met with bias violence at the hands of law enforcement when they are misclassified as "batterers," as perpetrators, and then mandated to attend batterer's intervention programs (as a restorative justice approach) or simply criminalized for acts of self defense and survival. Defendants in domestic-violence-related cases and street-based bias-violence cases who "struck back" are often subsequently categorized as perpetrators. Likewise, as

this such cases are largely unrecorded and under-researched, incarcerated individuals, who are often harassed inside jails and prisons by correctional officers, deputies, and sheriff's are disciplined, regardless of their attempts to defend themselves or simply react non-compliantly to unwarranted searches, assault, or abuse. This dynamic was evidenced in the recent, well-documented cases of two black women, CeCe MacDonald, a trans woman who fought against street violence, and Marissa Alexander, a cis woman who fired a warning shot in the air while defending herself and her child against her aggressive partner; and in the 2009 case of DC resident Patti Hammond Shaw, who reported a domestic-violence assault but was herself tagged as the perpetrator. MacDonald and Alexander were faced with serving sentences for self-defense. Shaw sued United States marshals for gross negligence and assault in her misplacement in an incorrect holding facility (her case is pending at this time).<sup>11</sup>

Targeted inside the jail facilities for being transgender, and categorized as a "repeat criminal" for having been arrested eighteen times since 1984, even though many of the charges were based on racial, sexual, gender, and class-discriminatory policing, Shaw was strip-searched, violated, humiliated, and then targeted by other incarcerated men in which she was placed in proximity. Shaw's first arrest was based on breaking a local sodomy law, a law that is considered deeply distant to this current political moment celebrating marriage equality. The failure of law-enforcement accountability in

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<sup>11</sup> Strangio, Chase. THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, PATTI HAMMOND SHAW, Plaintiff-Appellee, v. BENJAMIN E. KATES, et al., Defendants-Appellants. On Appeal from the United States District Court for the District of Columbia (No. 12-cv-538 (ESH)) 2013.

addressing their own policies of bias-motivated policing—even when dictated to do so by state law—is made especially evident in a case such as this.

In many recorded cases, one or both partners are assaulted or further criminalized for simply being transgender, for gender nonconformity, or for being queer or non-heterosexual, particularly in couples in which one or both members are people of color. *Queer (In)Justice* notes that “in Los Angeles, which consistently reports the largest number of LGBT DV [domestic violence] cases per year, a false arrest was reported in over 97 percent of cases in 2007: Frequently both parties are arrested or law enforcement officers threaten to arrest both.”<sup>12</sup> This statistic, alongside the 27 percent of bias-motivated incidents reported to law enforcement that are met with officer refusal of classification as violence against LGBT individuals based on sexual or gender identity simply shows us, in case after case, that although reform of these institutions might shift the damage done, the possibility of utterly unaccounted-for abuse and violence by state agents is far from accounted for. Reform takes shape sometimes of a inducing a temporary blood clot of a neglected wound with perpetual hemorrhaging.<sup>13</sup>

How do we talk about institutionalized and systemic violence as creating the conditions in which other forms of interpersonal, intimate, stranger, and daily violence are perpetrated? Does the state’s role in enacting violence through incarceration or acts of war actually deter violence and aggression in the future? What role does the state play when its military acts as the aggressor, as in the horrific case of Jennifer Laude, a trans Filipina woman who was killed by a US serviceman? Having been conditioned to

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<sup>12</sup> NCAVP. *Domestic Violence in 2007*, 25, NCAVP *Domestic Violence in 2008*, 2.

<sup>13</sup> NCAVP, 2008, p.13

violence through combat training in which violence has been normalized, can we conclude that this serviceman was not culpable and therefore not responsible for his actions? Absolutely not. But, as Ellison reminds us, it does beg the question of nonculpability and unprotectability of violence against women, particularly trans women and trans women of color, in cultures throughout the world.<sup>14</sup>

As early as the 1970s, before any legislation detailing the documentation of bias-motivated violence, gay and lesbian (primarily white majority) antiviolence projects undertook strategies to document antigay and anti-lesbian violence, specifically Gays United to Attach Repression and Discrimination (GUARD), the New York City Gay & Lesbian Antiviolence Project, and Communities United Against Violence (CUAV). CUAV's first priority was to "collect, analyze, interpret, teach and distribute statistics relevant to hate crimes activity."<sup>15</sup> Such efforts were primarily accomplished via volunteer-run twenty-four-hour hotlines, prior to any allocation of local, state, or federal funding. By the 1990s, the mobilization of community partnerships between local law enforcement and direct-service to nonprofit community agencies was coercively tied together as a matter of shared federal funding and resources. However, the priority, both materially and discursively, remained centered around the improved training, skillsets, and reform of state law-enforcement agencies writ large.

At a time when movements and slogans like "love wins" and the cultural and political movement to expand and make permanent hate crimes are together popularly

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<sup>14</sup> Ellison, Treva. *Towards a Politics of Perfect Disorder: Carceral Geographies, Queer Criminality, and Other Ways to Be*, University of Southern California, Dissertation, 2015.

<sup>15</sup> Janness, Valerie, 63.

understood as necessary for *living* – but yet this prescription for *living* can only ensure state-sanctioned legal partnerships and selective safety. How do such democratic liberal political investments as cultural response to otherwise neo-conservative white nationalist and neo-facist intolerance actually only further individuate, depoliticize, and reify the growing project of humanness as a democratic citizenship—the *right*-full life? In the 1993 text *Sexual Citizenship, The Material Construction of Sexualities*, David T. Evans introduces the term “sexual citizenship” through an examination of the material impact of “sexualization of modern society” in the United Kingdom and in the realm of the public and the private, particularly in diagnosing the entanglements of late capitalist markets, consumerism, and new modes of citizenship. Offering a critique of Thatcherism and normative sexualities, Evans argues that to understand “sexual citizenship,” one must interrogate how sexuality as a field forces open the spheres of economy, politics, and ideology. Sexuality studies, citizenship studies, and discourses specifically on “sexual citizenship,” both in the United Kingdom and the United States, primarily examine sexuality as a marker of spatial, local, global difference, as well as an ideological category, political identity, acts and actions, and inclusion that have shifted the barometer of the law (Kaplan 1997; Weeks 1998; Clarke 2000; Blasius 2001; Lister 2002).

In *Queer Loves and Hateful Others*, Jin Haritaworn asks, “Who must die, so that ‘we’ can live (or rather, who must live, so that ‘they can be killed with impunity’).”<sup>16</sup> Over the last three decades between 1980s to the mid-2010s, transgender and queer of color organizing in Los Angeles has been left with a legacy of worse and worse-off

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<sup>16</sup> Haritaworn, Jin. *Queer Loves and Hateful Others*.

options. At the height of the integration and initiatives of police diversity strategies to make white supremacy more multicultural and institutional, Since the early 1990s, “community policing” reform (also called “community partnering” and “community relations”) have given only the appearance of a de-escalation of violence. For example, one can chose from community-led solutions only to the extent that any emerging “community” voice must center a discourse of reform options. Secondly, perhaps, at best, community-impacted voices will appear as central to change and perhaps further even seemingly improbable demands recorded, documented, and a performance of agreement, but yet these interventions eventually are re-formed into policy at the behest of law enforcement leadership (e.g., this is at the discretion of commissions constructed by the office of the Department of Justice (DOJ), the attorney general (AG), or the board of supervisors); or 3) preselected and screened “community” voices from community-partnerships brokered and overseen by the county. and located inside programs funded through social or direct services organizations—services wherein “the community” is dependent on the paltry yet necessary services provided (e.g., Los Angeles LGBT Center).

Dean Spade and Craig Willse describe the focus and invention of the juridical field of hate crimes as “a world in which the racist/not racist or homophobic/not homophobic line is drawn at the point of violence and excuses and ignorance of the myriad systemic and institutional manifestations of subordination that do not rise to the level of physical violence.”<sup>17</sup> In other words, the exceptionality of each axis of identity

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<sup>17</sup> Spade and Willse 2000, 46.

(race, sexuality, religion, ethnicity, gender) is segmented to fit into predetermined legal categories of state protection; in effect, “violence” is legally commodified and distinguished as self-contained individual, interpersonal acts that happen outside the world of institutional, structural, state, and ideological violence. As scholar Beth Richie plainly puts it, “Hate-crime legislation asks the same state that criminalizes us to give us protection.”

Following the Civil Rights Act of 1968, which ushered in the first federal legal protections of bias against race, color, religion, or national origin, the dawn of anti-hate activism in the 1980s was led by a majority gay, white, cisgender men who presented a singular identity-based logic of exceptional “sexuality” bias. Culminating decades later in the federal Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act (2009), this logic of US sexual exceptionalism enforces a calculus of either/or (Shepard’s sexuality or Byrd’s race) that arbitrarily cleaves the intersecting identities of race, gender, sexuality, ability, and class. Jasbir Puar describes her introduction of the term *US sexual exceptionalism* stating:

Exceptionalism paradoxically signals distinction from (to be unlike, dissimilar) as well as excellence (imminence, superiority), suggesting a departure from yet mastery of linear theologies of progress. Exception refers both to particular discourses that repetitively produce the United States as the exceptional nation-state and Giorgio Agamben’s theorization of the sanctioned and naturalized disregard of the limits of state juridical and political power through times of state crisis, a “state of exception” that is used to justify the extreme measures of state.<sup>18</sup>

In dialogue with Agamben’s *State of Exception*, the distinction here between great supremacy and outstanding difference lies in the logic of the US settler colonial nation-

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<sup>18</sup> Puar, Jasbir. *Terrorist Assemblages*, 3.

state, the ability to be *of* (creating) and above the law when convenient to the reproduction of the state's own power.<sup>19</sup> This echoes Agamben's remarks that the "theory of a state exception is the preliminary condition for any definition of the relation that binds and, at the same time, abandons the living being to law."<sup>20</sup> The state of exception indicates that the state both *is* exceptional and *inhabits* exceptionality; for example, the United States prides itself on its ability to define a posture of both humanitarian and democratic inclusion, even if its direct practice and policy of that inclusion results in measures for radical and deliberate—and complete—exclusion.

Christina Hanhardt writes "as mainstream LGBT activism has homed in on the project of inclusion, it has simultaneously maintained an analytic separation between sexual and gender normativity from racism and political economy via the use of metaphor and the advocacy of privatization and criminalization."<sup>21</sup> Hanhardt describes the ruthless extraction of sexuality and gender, what I would deem theological particulars, as a means to control narratives of normativity and inclusion. This move further distinguishes such a "project of inclusion" for LGBT activism from issues of race/racism and political economy/classism under capitalism as non-issues, such that processes of "privatization and criminalization" become simply outcomes of the real work toward LGBT inclusion and unworthy of any special acknowledgement or note. Hanhardt further points out, specifically in discussing issues of LGBT antiviolence politics, that "concerns about personal safety well demonstrate the continuities between postwar liberalism and

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<sup>19</sup> Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005. Print.

<sup>20</sup> *Ibid.*

<sup>21</sup> Christina Hanhardt, *Safe Spaces* 189.



neoliberalism, as well as their striking differences.”<sup>22</sup> The emphasis here is on advocacy and activism that reduce issues of safety to the “personal” or “interpersonal,” that is, to a causal relationship between two parties, particularly the dichotomous relationship label of “victim-perpetrator.” Hanhardt takes note of these striking overlaps and contrasts between postwar liberalism and neoliberalism, analogous to the relationship of corporeal punishment and gender-responsive prison reform via a movement towards a carceral feminism. Similar to the development of what we know now as hate crimes, the cultural significance and momentum of hate crimes was particularly boosted by cisgender white men in the late 1970s and throughout the 1980s in collective efforts to address sexuality-based bias-motivated violence. Similarly, the purpose here was to have sexuality be included an identity marker in legal classes that were federally protected. For instance, although transgender women of color statistically have the highest rate of homelessness and housing discrimination among the LGBTQ community, California and Los Angeles hate-crimes legislation does not include the homeless as a legally protected class. Thus, official hate-crimes data can never measure the true extent of such insurmountable structural and intersectional violence.

To what extent do the many paradigms of carcerality reduce structural and institutional violence to a simple matter of individuated penalization of the perpetrator? And to what extent is this done in order to control the discourses concerning accountability, restitution, repair, and response to interpersonal violence, violent death, grief, and trauma? Given the fact that, amongst the LGBTQ community, transgender

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<sup>22</sup> Ibid.

women of color (TWoC) experience the highest rate of HIV infection/exposure, police brutality, houselessness (housing discrimination), unemployment (workplace discrimination), healthcare discrimination, street harassment, incarceration, and locating only viable work in the sex trades, to sever structural violence from interpersonal violence is to purposefully fragment and disjoint the lived experiences. The appearance of a bias-motivated violence is first and foremost charged as a violent crime in the criminal justice system, whereas the evidence of hate crimes requires both law enforcement reporting and a prosecutorial enhancement in that seeks to increase the mandatory minimum sentence. As BlackandPink.org describes, “Plain and simple, hate crimes legislation increases the power and strength of the prison system by detaining people for longer periods of time.”<sup>23</sup> How then might we address the ways in which both urgent and more long-term responses to violence against transgender and gender nonconforming people and women of color too often require legal documentation via police investigation? In cases where the harm-doer is unknown, for instance with stranger and or street-based violence, transformative justice and restorative justice alternatives to criminal justice investigation are near impossible. This is particularly apparent in cases where the survivor/deceased are isolated from even a process in which potential community alternatives could creatively be devised. As *Queer (In)Justice* describes,

A central shortcoming is its exclusive focus on individual acts of violence rather than on dismantling the systemic forces that promote, condone, and facilitate homophobic and transphobic violence. Hate or bias-related violence is portrayed as individualized, ignorant, and aberrant— a

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<sup>23</sup> For more please see, “Against Equality” <<http://www.againstequality.org/wp-content/uploads/2009/10/critiques-on-hate-crimes.pdf>>

criminal departure by individuals and extremist groups from the norms of society, necessitating intensified policing to produce safety.<sup>24</sup>

Further, the discussion of violence via the criminal justice system seeks to individuate the “perpetrator” or harm-doer as existing outside of time other than their own “record.”

Violence is ahistorical when seeking relation to complacent institutions, systems that abuse power, commonsense notions, cultural values, and structuring everyday practices that ensure the naturalization of the status quo (white, cisgender male, neuro-typical, able-bodied, masculine-presenting and performing, wealthy or well-to-do, upwardly mobile, educated via institutional higher learning, normative sized, heterosexual, greedy/ambitious, property-owning or striving for such, United States citizen). *Queer (In)Justice* further writes,

More than two decades after the first LGBT embrace of hate crimes laws, as NCAVP figures illustrate, violence directed against queers remains a serious problem. . . .As a result, even well-intentioned hate crimes laws can morph in the hands of law enforcement officials into tools used to reinforce old patterns of injustice.<sup>25</sup>

That is to say, not only discretionary practices but also centuries-old systems of punishment and criminalization in themselves cannot be cured or transformed. It is like expecting a good harvest from a garden planted in poisoned soil. In the same way that even the most well-intentioned fertilization will not help produce healthy fruit, positive lasting change cannot be expected when the very stewards of the system (i.e., law-enforcement agents) are negligent and complacent to the underlying toxicity of violence.

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<sup>24</sup> *Queer (In)Justice*, 126.

<sup>25</sup> *Queer (In)Justice*, 127.

## Historiographies of Data Production and Trans Life Beyond Death

In total, transgender victims and survivors represented only 13% of NCAVP total reports and yet over two-thirds (67%) were transgender women of color, and nearly three-quarters (72%) of homicides were transgender women. Trans women of color were then over five times as likely to experience homicide as other LGBT people.<sup>26</sup> Andrea Ritchie, LGBTQ lawyer and coauthor of *Queer (In)Justice*, notes that nine out of ten transgender women of color (TWOc) had suffered some form of police brutality in their lives.<sup>27</sup> A 2013 report by the NCAVP states that “transgender women were four times more likely to experience police violence compared to overall survivors, and six times as likely to experience physical violence when interacting with the police compared to overall survivors.”<sup>28</sup> In 2014, the same annual report states that trans women are “5.8 times more likely to experience any police violence” and “6.1 times more likely to experience physical police violence.”<sup>29</sup> Twenty years prior, a nationwide survey of hate violence against LGBT people covering the period 1985–1998 similarly notes that 40% of transgender people had experienced “police-initiated violence.”<sup>30</sup>

Why, then, would any transgender person, particularly TWOc, reach out to the LAPD to ensure their safety when having been met with such brutality? In times of

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<sup>26</sup> This historic, first of its kind research was collected from 14 premiere anti-violence programs in 13 states that serve the LGBT community (not always exclusively), this including: Ohio, Illinois, Colorado, California, Michigan, Massachusetts, New York, Vermont, Kansas, Missouri, Texas, Minnesota, Arizona and even Puerto Rico.

<sup>27</sup> Andrea J. Ritchie. “Ending Gender Violence Beyond Carceral Feminisms.” Plenary lecture, Color of Violence Conference, Chicago, IL, March 26, 2015.

<sup>28</sup> <[http://avp.org/storage/documents/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/storage/documents/2013_ncavp_hvreport_final.pdf)> Accessed May 5, 2015.

<sup>29</sup> <<http://www.avp.org/resources/avp-resources/405>> Accessed July 29, 2015.

<sup>30</sup> Anti-Lesbian, Gay, Bisexual and Transgender Violence in 1998. A report of the National Coalition of AntiViolence Programs (1999). <<http://ncavp.org/publications/NationalPubs.aspx>> The report unfortunately does not calculate the total murders of transgender women of color.

survival and crisis, this question is never one of political agency and/or radical self-determinancy. Rather, in crisis, trauma, or in being directly caught in the crossfire of institutional, structural, law enforcement, or interpersonal violence and/or neglect, not calling on the police often reflects a “worse but not worse off” decision. The underreporting of hate crimes, one of the most pressing issues driving criminal-justice reforms, is itself indicative of a noteworthy lack of trust between particular communities—especially the criminalized, targeted, and profiled—and law enforcement.

Accounting for violence has never been a question of exactitude, however the production and performance of hate crimes data endeavors towards such an end. The very act of recounting, of trying to account for another persons last moments of life, whether statistically or in narrative form, whether as a witness, bystander, reporter, scholar, whether in attempting to recall, remain objective or to attribute a different meaning to the moments of immediate loss, is simply an impossible feat, done in vain. The person is gone, their body vacated. We recount and account for their life for some kind of assurance, that they will not be forgotten, that perhaps we will not next, that it makes for a critical story. Every year, on November 20<sup>th</sup>, the City of West Hollywood hosts the International Transgender Day of Remembrance. In 2009 when I first attending when moving to Los Angeles, the gathering was in spacious West Hollywood public arena, a large covered venue that opens street side, attached to the West Hollywood Park. Volunteers are corralled to receive a red rose and read the names of known transgender victims throughout the years, beginning with those lost in that given year. With the reading of their chosen names, the volunteer speaker also announces their known age,

location and finally a deeply unsparing description of their overwhelming brutal deaths. The general affect in the large echoing room is funereal, volunteers in a procession walk on a large stage, behind them is a large projection of respective photos of each fallen transgender victim, almost exclusively women of color. One by one, the names of these women are read in differing registers of mournful somber tones. Some volunteers struggle to hold back tears, others recited the names gravely with a sense of duty, to recognize the dignity of those lost too soon in community. Describing the history behind TDoR, in the article “The Limits of Virtual Memory Nationalisms, State Violence, and the Transgender Day of Remembrance”, Toby Beauchamp describes the dualistic function and politicization of TDoR as both through the concert effort of vigils on-site and online memorial project, he writes:

For example, the site's 2005 press release for the annual memorial references the convictions in the Gwen Araujo murder trial, noting that similar cases have historically received light sentences, and positioning the memorial project as one that could both prevent future acts of anti-trans violence and encourage more aggressive criminal punishment for perpetrators of that violence. Indeed, the press release specifically champions federal hate crime legislation. This turn to the police and to the law is ironic in light of the long history of police brutality against trans and gender non-conforming people in the U.S. and elsewhere.<sup>31</sup>

Whether familiar with transformative justice or abolitionist critiques of the pitfalls of hate crimes, and over a decade following the highly publicized 2002 murder in Newark, California of transgender Latinx teen Gwen Araujo, the call for anti-trans violence and violent deaths to be investigated and prosecuted as a hate crime is a persisting issue for

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<sup>31</sup> Beauchamp, Toby. “The Limits of Virtual Memory Nationalisms, State Violence, the Transgender Day of Remembrance,” *InterAlia: A Journal of Queer Studies* (2007), 7.

many transgender communities. Suddenly in only the span of just five months, in mid to late 2014, Los Angeles QTBIPOC communities experienced a string of devastating losses, all three were transgender women of color. Zoraida Reyes a well admired Llatinx activist in the immigrant LGBT community, Aniya Parker a Black femme elder in community who also went by Asia, and Deshawnda Tata Sanchez, an aspiring fashion designer and a student at the LGBT center youth programs. These three sudden, premature and violent deaths both brought family or origins and queer community together, and too surfaced political tensions and differences along the lines of calling for police to “do their job.”

In the early morning of December 3, 2014, Deshawnda Sanchez, called Tata by close friends, pounded on the door of a neighborhood residential home in South Los Angeles.<sup>32</sup> She was seeking immediate refuge and emergency assistance. Distressed, Deshawnda called 911, from the street to report robbery and assault. Moments later, she was gunned down. Deshawnda was a young Black transgender woman, twenty-one years of age, a student at the Los Angeles LGBT Youth Center. Deshawnda’s family and fellow community advocates pushed for her murder to be recognized and prosecuted as a “hate crime.”<sup>33</sup> The transgender community wanted her life to be recognized as valuable, as mattering. In interviews with local news stations, many community members asked for

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<sup>32</sup> “Transgender Woman Shot, Killed While Pounding on Door of South L.A. Home for Help.” KTLA. Dec 4, 2014. Accessed March 21, 2015. See also, <http://www.latimes.com/local/lanow/la-me-ln-arrest-death-transgender-woman-20150226-story.html>, Accessed November 2, 2015.

<sup>33</sup> “California Penal Code Section 13023 (see Appendix 1), a hate crime is any criminal act or attempted criminal act motivated by hatred based on race, ethnicity, national origin, religion, gender, sexual orientation, or disability. These crimes must be reported to Department of Justice (DOJ) by law enforcement agencies. Each crime report includes information about, but not limited to: bias motivation; type of crime; location of crime; number of victims; and number of known suspects.” <<http://ag.ca.gov/cjsc/publications/hatecrimes/hc01/preface.pdf>> Accessed March 20, 2015.

the Los Angeles Police Department (LAPD) to “do their jobs.” In the march and vigil that followed the next evening, lively chants and colorful posters exclaimed *Black Trans Lives Matter!*, *All Black Lives Matter!*, and *Justice for Tata!*

Deshawnda’s premature death would be the third trans woman of color to be murdered in the greater Los Angeles area in six months, since June of 2014.<sup>34</sup> Yet for many transgender women and LGBT people of color, who are so often presumed to be either “criminal” (whether or not they have a record) or as sex workers or who lack correctly gendered or valid documentation, calling upon the police is simply not considered to be a viable option.<sup>35</sup> Particularly for historically oppressed communities, police support has always been a risk,<sup>36</sup> and asking police to “do their jobs” has often been nothing more than an exacting rubric of procedures, policies, and practices.

On October 2, 2014, Aniya Knee “Asia” Parker, a forty-seven-year-old black trans woman, was walking through Hollywood, when she was accosted by three young men who had been following her. Aniya Parker resisted their attempt to take her purse, and after struggling to break their grip, walked away. One of the three men pursued her and fired a single shot to her head, taking Aniya Parker’s life in what local news sources

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<sup>34</sup> Zoraida Reyes, a twenty-eight-year-old trans Latina woman and beloved immigrant rights activist was killed on June 12, 2014, in Anaheim, CA. Aniya Parker, a trans Black woman, forty-seven-years old, was shot and killed on October 2, 2014 in East Hollywood. <<http://www.colorlines.com/articles/aniya-parker-and-epidemic-violence-against-transgender-women-color>> Accessed January 15, 2015.

<sup>35</sup> “Transgender people of color were 2.7 times more likely to experience police violence, and 6 times more likely to experience physical violence from the police compared to white cisgender survivors.” [http://avp.org/storage/documents/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/storage/documents/2013_ncavp_hvreport_final.pdf). Accessed Feb 1, 2015.

<sup>36</sup> In Los Angeles alone, throughout the 1910s up until the late 1960s, there are anti-sodomy, cross-dressing and oral-sex laws and raids of gay bars. Please see Gay L.A., *A History of Sexual Outlaws, Power Politics, And Lipstick Lesbians* (2006).



reported was an “execution-style murder.”<sup>37</sup> Parker’s murder was caught on private CCTV surveillance footage, blurry yet clearly showing the flash of a gun and Aniya Parker’s stumbling, resisting death even after the shot while hurrying to cross the street, still fighting for her life. As if in slow motion, Aniya Parker is seen collapsing, first bowing almost gracefully at the knee, then sitting down on the curb of the street as if she were just weary of it all. In her last breaths, she falls over onto the pavement, her body and her life giving out.

These images are difficult to watch—the granular specks, the shadows of bodies under a tree, the struggle. We are not witnesses to the verbal exchange, and we can only make out images, but we do see Aniya Parker break free. We can make out one shadow body in particular, moving across the screen, following Aniya Parker from under the tree into the street. There is an arm, a gun, and a flash. We can’t hear how loud it is, but how shocking a sound it must have been to Aniya Parker. This violence cannot be undone; we see the impact upon her. Yet she continues to break free, resilient, an unapologetic will to leave and live, against all odds, against three men, against a bullet to her head.

These are the evidentiary materials used by the LAPD, circulated by local news outlets, and shared on Facebook posts so that we the public might witness, might feel something, might do something, might report any tips—anything known—to 1-877-LAPD-24-7. This is the footage that tells us how Aniya Parker was slain but does not tell us how she loved, how she lived, how she struggled, how she survived, how she thrived and moved through the world all the other forty-seven years of her life. We, who did not

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<sup>37</sup> <http://www.nydailynews.com/news/crime/arrest-killing-transgender-woman-killed-hollywood-article-1.2060265>, accessed October 23, 2015.

know Aniya Parker personally, get this single glimpse, the most tragic one. Did Aniya Parker know if this one shot that stole her life was over her purse? Was it because she fought back? Was it because of how these men perceived her, who she was to them—transgender, black, unworthy? Was she frightened, tired, in pain, disbelieving, or shocked? Did she blame herself? Did it all happen too fast?

The LGBT publication the *Advocate* reports that “while police have voiced doubts that Parker’s killing was related to her transgender status, local activists and attendees at a vigil appear unmoved by that assertion.”<sup>38</sup> Local news sources stated that particular communities viewed her premature death as a bias-motivated murder, “a grisly killing that some in the LGBT community claimed was a targeted attack.”<sup>39</sup> Los Angeles’s 13<sup>th</sup> District City Councilman Mitch O’Farrell also reminded news sources that Parker’s identity mattered in terms of her death, stating, “The transgender community is one of the most marginalized and discriminated against communities in all of society.”<sup>40</sup> Mary Zeiser, an LGBT community member, told the local KABC television station at the vigil the following evening, “This was not a robbery. In fact, they left the purse behind. This is a cold-blooded hate crime and this type of violence needs to end.”<sup>41</sup> Aniya Parker’s family—her sister, Adrian, in particular—just wanted to understand why. Adrian Parker stated in a press conference, “I don’t understand how you young people could do such a

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<sup>38</sup> <http://www.advocate.com/crime/2014/10/07/murdered-la-trans-woman-identified>

<sup>39</sup> <http://www.nydailynews.com/news/crime/arrest-killing-transgender-woman-killed-hollywood-article-1.2060265>, accessed October 23, 2015.

<sup>40</sup> <http://ktla.com/2014/10/10/sister-of-slain-transgender-woman-pleads-for-publics-help-in-homicide-case-we-just-want-to-know-why>, accessed October 23 2015.

<sup>41</sup> <http://www.nydailynews.com/news/crime/arrest-killing-transgender-woman-killed-hollywood-article-1.2060265>, accessed October 23, 2015.

mean and cruel thing. We just want to know why. We didn't get a chance to say goodbye....Our family is in deep emotional stress.”<sup>42</sup>

Zoraida Ale Reyes was a twenty-eight-year-old transgender immigrant-rights activist, well known to both local the LGBT and immigrant-rights communities. Zoraida Ale Reyes was born in Michoacán, Mexico, where the official Free and Sovereign State of Michoacán de Ocampo's state motto is *Heredamos libertad, legaremos justicia social*, “We inherited freedom, we will bequeath social justice.” Zoraida Ale Reyes carried on this spirit of social justice in her work, a freedom fighter who migrated to Santa Ana, California, eventually transferring from Santa Ana College to the University of California, Santa Barbara. Zoraida Ale Reyes was out as an undocumented student and organized with the Orange County DREAM Team (OCDT) as well as DeColores Queer Orange County.

On Thursday, June 12, 2014, Zoraida Ale Reyes's body was found behind the dumpster of a Dairy Queen. Reports of her death traveled internationally, and comrades from Arizona to Mexico held vigils and gatherings on her behalf. Local vigils followed in Phoenix, Los Angeles, Santa Ana, and San Francisco, where mourners gathered to grieve collectively. In Santa Ana on Friday evening, June 13, a candlelit procession of nearly two hundred participants moved together down West Fourth Street. Alongside chants invoking “Not One More!/ Ni Una Mas!,” and over the smell and smoke of burning sage, donations were gathered for burial costs. Zoraida's mother, Macrina Reyes, spoke in Spanish to the crowd: “I didn't know the family my daughter had, but I thank you. I

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<sup>42</sup> <http://ktla.com/2014/10/10/sister-of-slain-transgender-woman-pleads-for-publics-help-in-homicide-case-we-just-want-to-know-why>, accessed October 23 2015.

know she's here uniting us." Whispers of whether this was in fact a hate crime permeated the space, punctuated by the words of Alexa Vasquez to the crowd: "She was my best, best friend. Probably the best, best friend I could ever ask for... We always hear statistics. We always hear about transgender statistics and their numbers. Well, today it wasn't a number. It was my sister. It was my best friend."

Vasquez's words were a plea to consider a politics that was not just made of simple enumerations, not just faceless statistics, but of relationships whose last conversations were final conversations, in which one's love and history with this person, once missing and now gone, can no longer be reciprocated, in which there is nothing consensual about the pain and grief one will feel, in which there is an realization that the loss of life in total cannot be quantified. Vasquez's call was for a break from the quotidian, the result of so many opportunities to rewrite the premature, violent deaths of so many trans women, particularly trans women of color.

As both joy and grief animated the vigil space, Zuleica Zepeda, a friend from high school, offered a sacred blessing of the "Women's Warrior Song," traditionally sung throughout Canada and Turtle Island in honor of and in resistance to the alarmingly high rate of missing and dead First Nations women, particularly along what is called the Canadian Highway of Tears, the sixty-three-mile span of British Columbia Highway 16 between Prince George and Prince Rupert. Zepeda offered this song as a mode of resistance, survival, and remembering, calling upon the transnational fight against violence to women, both transgender and cisgender. The song ended with a sea of fists in the air, unrelenting, not forgetting, witnessing and attending to this loss. As people lit

their last candles, offering hugs of goodbye, the tunes of Gloria Trevi, a fierce Latina femme icon and singer much adored by Zoraida, played in the background.

### **Necropolitical Approximations: To Accumulate Data, Death and the Ghostly**

How does one collect data of the dead, of ghosts? Avery Gordon writes that “haunting, unlike trauma, is distinctive for producing a ‘something to be done.’”<sup>43</sup> There is no numerical metric, no statistical evidence or affective rubric that can measure the pain, trauma, loss, and grief that accompanies premature death, particularly in cases of sudden, unexpected loss or disappearance or when facing gruesome, mysterious, and/or dehumanizing and defacing death. Hauntings are what is left behind, ineffable and affective trails of what has not been fully “dealt with” in a way that honors the dead. Gordon describes hauntings as that which demands attention. Esther Wolfe writes, in conversation with Gordon specifically about the cultural haunting of transsexuality as motif, material, and violence,

A motif of ghostliness and haunting can be found in transphobic hate speech, an institutional speech used to define and code transsexuality, and can also be found in the speech of trans people to represent themselves. Language is also fundamentally tied to knowledge production, to the way we construct and understand being and the world. In this way, language forms a “knot,” a point of tension like that of haunting.<sup>44</sup>

Wolfe points out the vexations of language, particularly when wielded for social control, harm, or to compensate for that which is simply unknowable or unspeakable. Language

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<sup>43</sup> Gordon, Avery, *Ghostly Matters: Haunting and the Sociological Imagination*, xvi

<sup>44</sup> Wolf, Esther. “Except That the Haunted, Hidden Thing Was Me”: Ghostly Matters and Transsexual Haunting. *Digital Literature Review*, vol. 1 (2014). Ball State University. <[http://bsu.edu/dlr/past/issue1\\_wolfe.pdf](http://bsu.edu/dlr/past/issue1_wolfe.pdf)> (last accessed, July 30, 2016).

as enacted through material conditions that set the scene for bias-motivated violence devastates those who exist at the intersections of race, class, gender, and sexuality—particularly trans women and gender-nonconforming people of color—in a way that cannot be captured by datasets and statistical evidence, let alone by the everyday language of our world.

Eric Stanley writes, “The numbers, degrees, locations, kinds, types, and frequency of attacks, the statistical evidence that is meant to prove that a violation really happened, are the legitimizing measures that dictate the ways we are mandated to understand harm.”<sup>45</sup> This is to say, in what ways do we formally code harm and make it known and visible? What role then do statistics play in making harm more knowable and thereby of more value to the capacity of the state, nongovernment agencies, and social services to function? Stanley also questions the very core of the underlying impetus to “know,” in some kind of legal, evidentiary, validating way—through verification by state agents, first-responding law enforcement officers, interviewed witnesses, and, in cases of death, medical examiners, pathologists, and documenting agents—that such violations did indeed happen.

Stanley continues: “However, statistics as an epistemological project may be another way in which the enormity of antiqueer is disappeared. Thinking only, or primarily, statistically about antiqueer violence is both a theoretical and a material trap.”<sup>46</sup> What does this “trap” entail? In terms of critiquing the epistemological project of

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<sup>45</sup> Stanley, Eric. *Near Life, Queer Death: Overkill and Ontological Capture*, “Social Text 107, Summer 2011, p.5

<sup>46</sup> *ibid.*

statistics, statistics is largely an interpretation of data, often a quantification that analyzes, organizes, collects, performs a representation of some form of truth or knowledge. If antiqueer or hate-motivated violence in summary has been ‘best’ represented through statistical data, much of the pain, grief, trauma, not only remains unknown by these numerical values, the very acts of violence and whom they consumed and sought to expel are further violently obscured. Indeed, the very weight and shape of representing violence in a total way is simply intangible. Where exactly does that leave us? In tending to the realms of the empirical, of the numerical, how might we consider the datafication of death or loss as itself an *act* of displacement of that which haunts, and being haunted? Conversely, might the presuming ‘best’ measure of violence and death as a statistical project actually enact and even invite another kind of communion with the ghostly? As hauntings offer us a paradoxical relationship to empiricism’s obsession with the objective, the measurable, the conclusive, how might invoking our ghostly or the spirited allow for us to read against and with our penchant for data as a entangled heuristic ritual? Stanley continues by describing the gruesome account of a death in which the physical body has been dis(re)membred— physical erasure becomes institutional erasure:

Although statistical evidence is important to make strong knowledge claims about the severity of violence, “statistics” seem to have a way of ensuring that the head of Brazell is never found. Ironically, because his head has yet to be recovered, the “actual” cause of death cannot be officially determined. Furthermore, this indeterminate cause of death bars Brazell from being entered into hate crimes statistics. Not yet dead, Brazell has never been counted as a casualty of “hate violence.”<sup>47</sup>

With the cause of death missing, which happens both in cases of missing persons and

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<sup>47</sup> *ibid.*

when the evidence of the physical body is undeterminable by medical science, “cause of death” determinations are bound by regulatory rules and licensing and testing services through associations like the National Board of Medical Examiners (NBME) and the relationship of forensic teams to local medical examiners and coroners. In various locations in California, coroners are considered law-enforcement officials. At every step, our dependence on material accountability leaves us preoccupied with the legal legitimization of violence through evidence-making apparatuses like data and statistics. From the investigation of the death to the testing and examination of the physical remains as material evidence, the state mitigates and exemplifies the types of justices that are possible in the name of our dead. Let us circle back to exactly how the United States itself has been one of the biggest proponents and committers of mass death while perfecting its ability to be understood as an entity that is both the creator and administrator for the accounting of “justice” in the name of the dead.

What are the actual limits of data collection in naming violence against trans people, particularly trans women and trans people of color? The history of hate-crime reporting might suggest that we have taken a positive step in the right direction. It can be said to some degree that federal and statewide hate-crime legislation has, in the last three decades, progressed to include and validate categories of people who have not been seen as targeted by hate. This logic of inclusion in state legal protections and juridical safety is, at best, a gesture toward a normative, social/public sphere of being valued or, I would argue, *e-valued* (evaluated/valued by electronic, uniformed data). By this I mean that value is both attributed to one (often the number value of “one”- an addition) and



included into the fabric of citizenry and state legal protections. Moreover, the validity for categorical evaluation must then be measured alongside the appropriateness of one's being a unified subject who has adequately proven his or her coherency as victim of a crime that is legally regarded as having been "motivated by hate." Hate-crime-statistics reporting stands to only approximate enumerations of standardized forms of reported violence and thus remain in a perpetual state of "underreporting." It is argued here that these quantitative systems reproduce discursive forms of *knowing* and *counting* that demand criminal justice reform only via improved collection and categorization practices. Even if a victim's identity category is included, the barriers to defining the violence as a "hate crime" are significant. Given that the report was made, it must then be successfully documented, processed, accepted as a hate crime, and prosecuted as a hate crime. While most community organizations, policy makers, and politicians will advocate for a more efficient, standardized, and competent system of reporting, again I argue, even with a system par excellence, the end result continues to be an increased investment in systems that criminalize—policing, prosecution, imprisoning, and permanency of criminal documentation.

We see such advocacy and criminal- and restorative-justice reform in the cycles of the new social movements of the last five decades. General minoritarian groups, excluded in all other respects, are given particular rights so that they might appear now to be on equal legal terms and protections with the archetype civilian, the white, cisgender, heterosexual, able-bodied, property-owning/inspiring male. However, whether it be the black radical-power movement, which became re-historicized as the black civil-rights

movement; the coalitional feminist and women's movements that contest patriarchy and gendered violence, which became re-historicized through VAWA and equal pay rights; or the histories of queer liberation, which now has been reduced to slogans of "love wins" and "marriage equality," all are instances of the coopting of the resistance struggles and the movements toward individuated success of multicultural inclusion. They are emblematic of the fear that provokes such insidious power from the state, and they narrate what is valued as a winnable win or as realized successes within the otherwise resistant and coalitional collaboration of new social movements.

Similarly, hate-crimes activism or antiviolenace activism that challenged bias-motivated violence became, much earlier, preoccupied with the inclusion of sexuality into the matrix of "protected classes" under crimes prosecuted based on evidence of violence that was motivated by racial, national, ethnic and religious bias. At the end of the chapter, the question will be posed as to how survivor-based solutions have been discredited, erased, and lost in the process. As well, we will explore how forms of neoliberal inclusive *counting*, *accounting*, and *accountability* have served to only reestablish the United States as a geopolitical legal epicenter.

Data production, as presented as an especially unquestioned state formation of knowledge and episteme, at its core lays a foundation of data as truth-value, as evidentiary material. Given the validation of such data through the coerced participation via local community organization 'buy-in', as well as federal, law-enforcement, social-service, and legal agencies, hate-crimes data has made itself indispensable to the business of resourcing solutions to state-legitimated violence. It tells a story of the heaviness (of

heart and numbers) of mass indexing and quantification of certain legally validated forms of violence. It shows us the captivating, positivist quantification of statistics that are used to imply characteristics of datasets intended to support a certain visualization of problems in the social and material world. Such datasets are then used to tell us a story of how many, how often, what types, to whom, by whom, and where hate crimes occur.

When seeking attention to epidemics of social problems, particularly through the federal tool of crimes data that became institutionalized in 1930, such a history has produced four annual reports through the FBI: 1) Crime in the United States, 2) the National Incident-Based Reporting System, 3) Law Enforcement Officers Killed and Assaulted, and 4) Hate Crime Statistics. In May of 2016, Governor John Bel Edwards of Louisiana signed into law a bill to protect “law enforcement” as a social group targeted under the category of hate crimes. Most critics of the law claim that such an inclusion dilutes the essential purpose of hate-crimes legislation. This chapter argues that if we are most concerned with those who have been harmed by bias-motivated violence, we must not be seduced by the politics of inclusion into hate crimes without simultaneously critically engaging, interrogating, and dismantling the juridical criminalization and the expansion of its material apparatuses in its efforts to “combat” hate crimes.

Similar to the critiques of what gets categorized as a crisis, genocide, epidemic, or mass killing, the numerical thresholds by which we measure hate crimes as being “not acceptable” or “too high” have repeatedly been calibrated through a death-making and commonsense logic that computes datasets that provide maximums—increasing numbers are judged “alarming,” and decreasing numbers are judged successes, even if the numbers

in total are clearly based on social variables and compromised by underreporting. The power of data is overwhelming. What counts as data (valid information) is used as statistical evidence to drive policy, advocacy, legislation, and law enforcement. And let us not forget, too, that such data drive popular discourse and the mobility of communities locally and globally.

The politics of counting and being counted is especially peculiar in the case of hate crimes, as the aggregation of this data becomes an issue of “inclusion” in state databases and categories of state legibility, what criminologist Valerie Janesse describes as the “conditional category.” As Eric Stanley states,

Reported attacks on “out” queer folks, such as these data, can of course only work as a swinging signifier for the incalculable referent of the actualized violence. This is not simply a numerical issue; it is a larger question of the friction between measures and effect. Not unlike the structuring lack produced by any representation that offers us, the viewers, the promise of the real, statistics can leave us with only a fragmented copy of what they might index. “Reports” on anti-queer violence, such as the “Hate Crime Statistics,” reproduce the same kinds of rhetorical loss along with the actual loss of people that cannot be counted.<sup>48</sup>

What exactly is data, then? Data as a thing unto itself that does not simply rely on fact or truth—and this even putting aside postcolonial critiques of what is meant by “Truth” and “Fact.” Data production is a social outcome of an inevitably subjective process of observing some set of defining patterns. Whether informed by quantifiable or qualitative observations, these sets, observations, or “gathered” or “reported” evidence is then aggregated both to yield expertise and explanatory power and to seize control of how

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<sup>48</sup> Stanley, 6.

social problems are narrated, approached, and addressed. Craig Willse notes of the genealogy of statistics via numerical data,

While gathering numbers predates the rise of the modern state form, statistics (the etymology refers to “state data”) marks the shift from a gathering of numbers for numbers sake (as in pre-modern Parishes in Sweden, as Ian Hacking notes) to the production of numbers put to work, and as such, is central to the rise of the nation state. This work might solidify as natalist policies, electoral districts, unemployment forecasts or insurance rates, to name a few governmental uses of statistics (Porter, 1995).<sup>49</sup>

Willse reminds us of the bedrock in which data has always reified and reproduced itself as a statist project and of the unending applications, cyclicity, and perpetuation of statistics in ensuring the expansive power of the nation-state, particularly as a predominant actor on the global stage. Data in the context of the late-capitalist neoliberal democracy of the United States remains deeply tied to the early technologies of governmentality and securitization of past centuries. Data claims, however digitized and consumable by the sciences of actuaries, algorithms, and crime-prevention prediction, reduce life as being itself a value and a means to favoring and inducing numerical (human-death/erasure) value. This process, then, of life as number, manipulates an ouroboric logic of premature death, where advocacy and protection is granted through the weaponizing of life as victimhood, receptacle of harm, or death, which streamlined state militarization through the statistics of crime. Foucault writes,

You could also analyze the security technique of criminal statistics. Crime statistics do not date from the present, but neither are they very old. In France, crime statistics were made possible by the famous Accounts of the Minister of Justice from 1826. So, you could study the history of these

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<sup>49</sup> Willse, Craig. *Surveillance & Society* 5(3): 227-251 *Surveillance & Inequality* <<http://www.surveillance-and-society.org>> p.235.

techniques....A technology of security, for example, will be set up, taking up again and sometimes even multiplying juridical and disciplinary elements and redeploying them within its specific tactic.<sup>50</sup>

In other words, the technologization of data is akin to the historical development of state records and record keeping as a mode of expanding its own juridical, disciplinary, and penalizing power such that documentation instructs state strategies and tactics for legal interpretation and rationale for further techniques toward security of state power and governmentality as a constant and material inevitability, an eternal truth. However such histories of record keeping and documentation too will drag and drudge up much unrest, the uncapturable, the elusive, the unwarranted—a cultural haunting.

### **States of Exceptionality and the Episteme of Hate Crimes**

In the procedural unfolding and de facto practice of notating, collecting, and enforcing the legal framework of hate crimes, by necessity of the ways hate-crime legislation has been written into the framework of United States law, the subject of hate crimes is an individual who must be known and named, a subject-object that is defined by injury and can be identifiable. In terms of protecting one's sexual identity, such an identity thus must be named as singular and unified. Likewise, identity positions of race, gender, ability, and religion are ascribed as stable, coherent, and stagnant categories. Thus, not only do identities then exist in a relationship of singular axis and grouping, but shared and intersectional identities are simply flattened, forgotten, and or erased in the process. Even worse, hate violence that perhaps is not targeting a person based on one

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<sup>50</sup> Michel Foucault, *Security, Territory, Population: Lectures at the College de France 1977-1978* (New York: Picador Press, 2009).

isolatable and totalizing identity, then requires legible evidence of hate violence toward one or all of those named identities.

In cases in which the violence is not witnessed and the victim is made silent in the process, whether from fear of retaliation by law enforcement, societal expectations, or having been involved themselves in survival economies and/or work that reckons themselves criminalizable—or more devastatingly, given premature death, they are without voice—there will never exist a perfected legislation or law-enforcement response that is exemplary enough to return life (to themselves, their families, their loved ones, their communities). In total, the United States criminal-justice system is least concerned with the creation of any form of life-giving restitutions. Rather, the system was built on a motto of *mens reas* (guilty mind) and on British common law.

In other words, a system in which law was “common,” to be abided by, interpreted, and applied, would suggest some kind of equity for all under the law. However, historically, much of these interpretations paralleled the most gendered and racialized forms of who is attributed as having a mind that is more or less prone to guilt. This is to say, no matter how much reform or inclusion is achieved in terms of the court systems and legal reform, the premise of the US justice system is one that performs the annunciation of “innocence before proven guilty” yet begins with the dichotomy of innocence or guilt. Such a system of justice that is fully premised on retribution through punishment will continue to seek “justice” in the name of the court, the state, and sometimes perhaps those impacted directly by the harm.

However, as many restorative-justice practitioners and transformative justice organizers have suggested, even these options of pursuing justice are limited to the interest of the state and court system. In other words, hate crimes as a project does nothing or very little for the dead themselves. Hate crime projects are for retribution of the living, perhaps the family of the dead, but they simply cannot ever provide a relief that centers the needs and desires of those harmed. Hate crimes can only create retribution through enhanced punishment of the person who inflicted the harm. The end goal of the collection and distribution of hate crimes data and reporting continuously fails to be concerned with the actual needs of the victim and or person(s) harmed. No amount of data or statistics can ever tell the story of the conditions that stoked the flame that caused the violence to erupt. This is not to say that individuals do not bear responsibility for enacting bias-motivated violence, but rather that we are compelled to look beyond the individual to explore what the current responses to bias-motivated violence tell us about the tools we have yet to develop to address the grief and dis-recognition felt in the face of gruesome and dehumanizing theft of life. Through a process of determining the technicalities that define what is and what is not a hate crime, hate-crimes legislation determines the identity of the appropriate subject/target/victim; this process in itself necessitates a dismembering of intersectional identities.

Dean Spade and Craig Wilse, in conversation with activist AnnJanette Rosga about the vexed position of advocating for anti-gay violence through hate-crimes legislation, point out that this process “allowed the very identity categories enforced by hate violence to be written into law, and thereby reinforced hegemonic notions of



mutually exclusive, internally undifferentiated, bio-social groups.”<sup>51</sup> Rosga points out that the conventions of US criminal law will have certain notions of “hate violence” that are differentiated exclusively as such so that no matter how encapsulating, the function of law will always be to create exclusions to and from the letter of the law. Chandan Reddy writes in *Freedom with Violence*,

The act (Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009) offers significant federal resources, both institutional and financial, to local law enforcement officials in the investigation and prosecution of hate-motivated incidents. It also extends federal authority to investigate and prosecute bias-motivated crime beyond the original restrictive grounds to cover any hate crime committed in any US jurisdiction, superseding state and local criminal statutes.... We can call October 28, 2009, a significant moment in contemporary political cultural defined by its *freedom with violence*.<sup>52</sup>

The state of exception, like freedom with violence, is the ability to withhold, presume, and perform rampant relational relativism within a paradigm of a white-supremacist settler-colonial juridical bio-political world of let live and let die.

In an effort to undo/unmask some of the logics that underpin the project of reformation, the concepts of progress, reform, and perfecting the function of a penal system as both a mode and outcome of neoliberal late-capitalist multicultural white supremacy. Efforts to criminalize what are now called hate crimes and what were formerly called targeted violence on minoritarian communities (or “racial, ethnic, religious, and sexual” minorities) have always existed as a project of making more culturally competent and direct the law toward liberal notions of social and political

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<sup>51</sup> Spade, Dean, Craig Willse. 2000. Confronting Limits of Gay Hate Crimes Activism: A Radical Critique, 21 *Chicano-Latino Law Review*, 46.

<sup>52</sup> Reddy, Chandan. *Freedom with Violence: Race, Sexuality and the U.S. State*, Duke University Press, 2011.

inclusion to otherwise once (and still currently) legally criminalized or criminalizable bodies, fugitive bodies and bodies determined as requiring an unending amount of social and institutional control. In other words, the fictive narrative of progress by US liberal democracy is a tried-and-true system in which the law, as the “skin” of the state (that which first gets bruised, abused, or broken), is simply learning to better itself, its construction, and its adaptation to its constituents (or, more so, to the mythology of the founding fathers.) This contention is in stark contrast to the bare life and *habeas viscus* (“you shall have the flesh”) discussed by Alexander G. Weheliye in conversation with Hortense Spillers, that is, similarly the state, in its preoccupation with inhabiting a static being-ness while reproducing itself through a self-reproducing ontology of also being embodied and itself a site of injury.<sup>53</sup> It is argued that the analogous relationship of law, as the flesh of the body of state, and its corporeal constituents, as both central and surplus to its regeneration, allows us a more illustrative understanding of how the state views the practice and procedures of reform. Reform requires that the body of the state acquire immunity to a particular social disease, that it develop and produce a weakened and controllable form of social agents that resemble the social disease—the “microorganism”—in order to destroy or keep record of it. In this sense, reform itself is a type of vaccination, one that utilizes an administrative science of preparation and precaution to protect the corpus from being diseased from a known or perceived social threat.

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<sup>53</sup> Weheliye, Alexander G. 2014. *Habeas viscus: racializing assemblages, biopolitics, and black feminist theories of the human*.

Spillers, Hortense, *Mama's Baby, Papa's Maybe: An American Grammar Book Article* in *diacritics* 17(2):64 · July 1987.

This is strikingly analogous to federal covert operations such as COINTELPRO (Counter Intelligence Program), in which the goal was to “expose, disrupt, misdirect, discredit, neutralize or otherwise eliminate” social-justice movement leaders and organizations through the implementation of disruptive agent provocateurs to create factionalism and or other modes of jeopardizing organizations through entrapment in activities that would provoke FBI intervention or seizure of work, programs, or the lives of their leadership. In other words, COINTELPRO, although eventually understood as a program whose own activities were illegal and unconstitutional (indeed, which itself was recognized as an illegal enterprise), was a mode of reformation of what was perceived as social unrest and rebellion to the body polity of the US nation state. Reform as a mode and practice of ensuring that the state remain immune from threats or exempt itself from liability is a most brilliant tactic for keeping the focus of change and transformation to ventures that seek only to redirect and recondition the ways and measures by which change can and must happen—that is, never at the expense of the state body, but rather as a means to improve the state’s ability to reproduce itself as necessity to mandating what is and is not life-making and what is and is not proper modes of death-making.

Hegemony and the state act as centripetal forces that compel bodies—even bodies of dissent—to move along a curved path toward a predetermined and preexisting “center” (the state). Writing specifically of the state as a force of discipline, Foucault notes that “Discipline is essentially centripetal. I mean that discipline functions to the extent that it isolates a space, that it determines a segment. Discipline concentrates, focuses, and encloses. The first action of discipline is in fact to circumscribe a space in

which the mechanism of power will function fully and without an amendable limit.”<sup>54</sup>

When considering the motion and curvature of “reform” and the various modes of restorative praxis to the criminal justice system, the “center” of the state as a body composed of organic material of flesh that also remains fixed as an eternal horizon, leaves little room for alternative possibilities that preclude its existence. The metaphor of reform as a type of immunization or vaccination to prevent social threats to the body is apropos in terms of the function and performance of hate crimes. Hate crimes as a body of legislation and legal texts have been used to both re-center and de-center the role of the state in itself being observed as a vehicle in which bias-motivated violence impacts particular groups that are observed as belonging to the nation.

In other words, as a means to control protest, dissent in all its forms, including disobedience, rebellion, rioting, revolution, or any form of what has been deemed “betrayal” to the role of proper citizenry or allegiance to the state, is observed as needing some form of treatment, some form of remedy to ensure that it can be contained and recorded even if the process of acknowledging the social threat means that there is some form of admission that takes place on behalf of the state. However, the remedy by which such social harms are dealt with seek to bolster and expand the capacity of the state to document, narrate, record, and even develop a science by which the social threat is best reduced or contained.

Reporting of hate-crimes statistics did not happen overnight. Rather, the development of protocols and procedures for collection, reporting, aggregation, and

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<sup>54</sup> Foucault, Michel, Michel Senellart, François Ewald, and Alessandro Fontana. 2007. *Security, territory, population: lectures at the Collège de France, 1977-78*. Basingstoke: Palgrave Macmillan, 67.

production of uniformed crime statistics have been a state-based and law-enforcement expansion project for over four decades; one could even argue that it has been in development since the inception of modern policing. Similarly, and particularly in the case of hate-crimes reporting, the multi-layered collaborations and partnerships between community organizations, legislators, politicians, and local, state, and national law enforcement became solidified on a new level of inter- and intra-agency data sharing and development. Such collaborations are particularly alarming as they have created an environment of zealous civic duty for the betterment, education, and training of law enforcement to be both protectors and first responders to issues of bias-motivated violence. Such a prerequisite of working alongside law enforcement meant that to address bias-motivated violence, one was centering the possibility of fixing this issue through an entity that in itself was both capable and prepared to do so. However, such dictates of relations assumes that law-enforcement officials, culture, and the state were not themselves the perpetrators of the bias-motivated violence.

Bias-motivated violence or hate crimes have cultivated a circular discourse of non-accountability which then the state and law enforcement have been further naturalized as the the best guardians and protectors of those deemed most vulnerable in civil society. The ontology of the state as a fixed being, firmly rooted in its bedrock, assumes itself to be in a position of omniscience. What is most disturbing about this position is that the state reproduces entities that are designed to protect its own capacity to be unchallenged. Hate-crimes projects, although purportedly designed to display societal disapproval of the actions of individuals against other individuals who have been

known to be targeted for appearing in the minority in the end do little to actually protect those who have been harmed. Like allopathic medicine, the directive is to address and treat the symptoms only. Yet hate crimes fail to treat even the symptoms; rather, they seeks to punish the individual attack or the attempt at harm.

### **Epidemiology of “Hate”: To Vaccinate Social Risk**

The state’s preoccupation with expanding its carceral function, from law enforcement, security, and surveillance technologies to the criminal justice system and penal legislation, is both a product of its ontology and a motive to assess and manage risk, particularly risk to its own “state selfhood” and to its model constituents. Like war and militarism in the United States, these preoccupations are similar to tactics and strategies based on self-reproducing calculations of “collateral damage.” Hate crimes entered into the sphere of critical public-political issues as a new-fangled social “epidemic” in the mid- and late-1980s, and in the following two decades, both state and federal legislation was codified to legitimate and prioritize the issue of bias-motivated violence to particular vulnerable minority communities.

I use the metaphor of a vaccine to describe hate-crimes legislation and data as it is meant to prepare the social body of the United States against the proliferation of what it deems a social threat—bias-motivated violence on both local and global scales. Vaccines function through the body’s ability to recognize, destroy, and keep record of the threat; as such, this metaphor can extend to all uniformed crime reporting and data collection.

The purpose of a vaccination in this sense (using legislation and data to counter the social threat) is to control the threat and infection from returning (to both the body and the society/culture).<sup>55</sup> However, as much as the state seeks to project itself as an embodied subject, it is actors within the state that continually reify and manifest such a social radiation. To extend this further, social threats are treated as infectious microorganisms that must be cast out, ejected from the social-national body as being hateful, criminal, illegal, terrorist, and undesirable.

In such a narrative, expunging the national body of such threats as “hate-based violence” is simply impossible when the national body itself is unwilling or unable to recognize its own self-contained and self-conditioned participation in tilling the fertile grounds in which bias-motivated violence grows. In other words, when bias-motivated violence occurs as a response to and fuel for the fiery friction in national sentiment due to new terrorizing “monsters,” newly-minted targeted state enemies, such “causality” in political discourse is always siphoned to the space of the “interpersonal.” The reduction of bias-motivated violence to violence that is simply interpersonal is logically contradictory to even the juridical premise of what counts and is included as a hate crime. In other words, the knowability of the hate and the qualification of such hate as a crime follow a rubric in which certain larger social contracts and identitarian-based relationships are known and made legitimate through perimeters of structural relations in which location, categorization of the crime, evidence, perpetrator, and victim must be believably knowable to and recordable by first responders, primarily law enforcement.

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<sup>55</sup>U.S. Center of Disease Control, accessed January 4, 2016, <http://www.cdc.gov/oid/docs/ID-Framework.pdf>

The advent of hate crimes itself is premised on the heightened need to treat or advocate for the reduction of a social epidemic of violence, violence that through legislation was understood to have reached a knowable and less tolerable peak. Such a peak or social pandemic could only be addressed to a certain extent via a placation between legislation, grassroots mobilization and social change advocates.

The scientific history of perfecting and distributing vaccines and vaccination, a sordid history of experimentation of impoverished, racialized, and gendered subjects deemed socially expendable, resulted in the institutionalization of communicable diseases and contagion control. The institutionalization of research in which bodies and persons were treated, left untreatable, or experimented on for the sake of the projections of scientific progress created an ethical mandate in which such risks and experimentation toward social-risk management were presumed as being necessary to the larger social good or social body. In Mel Y. Chen's expansive discussion of *animacies* and the many interchanging roles of privileged bodies, the social and national body imagined is nearly predetermined as that which provides life and goodness, even when it is itself distributing death and death making through impoverishment and military and state violence.<sup>56</sup> Such a role of instructing and fashioning the science that locates both the coordinates and definitions of what then is criminalizable hate, as a mode of "protecting" ones own constituents, is no more than a mode of providing a service of risk management, as Haritaworn describes as a marker of "hateful others," can be further made criminal and in need of repudiation from the national social body.

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<sup>56</sup> Chen, Mel. "Introduction" in *Animacies: Biopolitics, Racial Mattering, and Queer Affect*, Duke University Press, 2012.



The advocacy of addressing bias-motivated violence simply has been subsumed by our carceral, penalizing justice system to such an extent that critical interventions to address targeted identity-based violence have become eschewed to prioritizing the perpetrator/criminal over the victim, thus proliferating the use of the fictive dichotomy of victim and perpetrator. Advocates, including community activists, legal practitioners, direct-service-based agencies, social workers, case managers, and medical practitioners, who seek to ensure that their community is “counted” and receive particular protections/documentation of members’ “victimhood” often seek to have the categorization, reporting, and prosecution of hate crimes done with more diligence and sensitivity to their clients/community members. However, such advocacy on the level of instructing compliance and/or use of all possible legal tools is very different from having faith in the eventual perfection of prosecution and categorization of hate crimes. That is to say, it is not just that it leaves out those who reside in sociocultural intersections and is beyond the fact that legislation relies on the limits of evidence via naming and categorizing. If all that were perfect, all hate-motivated violence could be caught, prosecuted, seen, and understood in a popular majority sociopolitical realm as being abhorrent and detestable, and that the person who committed such an act would be punished doubly for not only the crime itself but also for directing hate toward a specifically targeted group. In the end, wouldn’t this be the kind of antiviolence practice we would want to evolve to and sustain?

## CHAPTER II

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### III. If the Rainbow Glove Fits: Arresting Minority Partnerships, Community Policing and Atomizing Violence

*Sanity is not statistical.*

— George Orwell, 1984

*At the root of the dispute are conflicting claims by the [Los Angeles] Police Department and the F.B.I. that each has the nation's pre-eminent special weapons and tactics paramilitary unit. [...] They [LAPD] argue that the concept of a paramilitary police unit was invented by their department more than a decade ago and that it is better suited than the F.B.I. to respond to many types of terrorist acts.*

—Robert Lindsey in *New York Times*, February 9, 1984<sup>1</sup>

*1984 Los Angeles*

This chapter will offer a glossary of the ways in which bias-motivated violence and hate crimes have been established through “community-oriented policing” and identity-politics-based reform, and vice versa. This chapter will also offer a cultural and historical analysis of the performance of state-based community partnerships and what I term “antiviolence violence” perpetrated by state, the law, and law-enforcement agencies. State-based community partnerships by which the supposed participation of a select community distinguishes the state as a mediator of justice and safety are themselves enactments of systemic bias-motivated violence, both exceptionalizing<sup>2</sup> and recusing the state from accountability.<sup>3</sup>

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<sup>1</sup> Robert Lindsey, “F.B.I. AND Police in Dispute of Summer Olympic Role,” *New York Times*, February 9, 1984, accessed May 2, 2017, <http://www.nytimes.com/1984/02/09/us/fbi-and-police-in-dispute-on-summer-olympics-role.html>.

<sup>2</sup> Additionally, I will bring into conversation Agamben’s discussion of the state of exception to frame such performances of the sovereign, “theory of a state exception is the preliminary condition for any definition of the relation that binds and, at the same time, abandons the living being to law.” Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago, IL: University of Chicago Press, 2008).

<sup>3</sup> As such issues of state-targeted bias-motivated violence are both historically and contemporarily marked by recent uprisings from both Black Lives Matter organizers on anti-Black policing to militarized police

The history of racial violence in Los Angeles far predates critical efforts at “interracial progress” in Los Angeles that followed on the heels of WWII. In 1871, a decade prior to the outright federal Chinese Exclusion Act of 1882, an estimated Chinese immigrants were massacred in downtown Los Angeles, a looting, torture and mass lynching by a mob estimated of over 500 white and Mexican men. What does not get discussed often in recalling this bloody history is the precursor to that night’s event, the rivaling factions of two prominent Chinese companies [leaders Sam Yuen and Yo Hing] who sought to “regain the possession of their [Hing’s] lost chattel”, a young Chinese woman named Ya Hit.<sup>4</sup> Against the backdrop of growing anti-Chinese sentiments amongst whites, the death of a white man Robert Thompson, a local resident attempting to aid a police officer responding to the conflict between the two companies would be the spark that began the mob fire. Taking place on the street of Calle de los Negros or Negro Alley, euphemistically renamed simply Los Angeles Street, the recalling of racial violence in LA history often becomes consumed by amnesiac progress narratives of triumph and overcoming differences.<sup>5</sup>

In the wake of the 1943 Zoot Suit Riots, Los Angeles County was faced with issues of street-based violence from primarily white sailors descending upon Latino and

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response to Standing Rock Sioux tribe’s protest against the Energy Transfer’s Dakota Access Pipeline.

<sup>4</sup> As Yuen’s company bailed out Hit, Hing would later bend the arch of the law and use the institution of marriage and his sway of local law enforcers to come into ‘lawful possession’ of Hit. Yuen’s company placed a \$1000 reward for the scalp of Hing and a rivaling war would ensue between the two companies. For more, please see:

C. P. Dorland, *Annual Publication of the Historical Society of Southern California, Los Angeles*, Vol. 3, No. 2 (1894), pp. 22-26.

<sup>5</sup> For more, please see:

López, César. *Lost in Translation: From Calle de los Negros to Nigger Alley to North Los Angeles Street to Place Erasure, Los Angeles 1855–1951*, Southern California Quarterly Vol. 94, No. 1 (Spring 2012), pp. 25-90

brown (primarily Mexican) youth in social spaces of congregation. On January 11, 1944, half a year following this outbreak of race-incited violence and on the recommendation of an official citizen's committee, the Los Angeles County board of supervisors established the Joint Committee on Interracial Progress to stem the rise of 'ethnically-targeted violence.' The committee described their task as to "seek out the causes of racial tension and devise all means possible to eliminate them."<sup>6</sup> This joint committee would later become the Los Angeles County Human Relation Commission, self-described as one of the "oldest and largest of its kind in the US."<sup>7</sup> This history of racial and ethnic violence often gets described as a part of the long growing pains of Los Angeles, however, what is glaringly unresolvable about instances like the spatial nomenclature of Calle de los Negros, then synonymous with depravity, social disorder and "wickedness", is how such figurations of Black space became prerequisite to the "social and spatial isolation induced by the hyper-segregation of Black LA [Watts/South LA]..."<sup>8</sup>

Even the institutions upon which the county was built were erected on the erasure, displacement, and cultural and state-sanctioned genocide of local Los Angeles Basin indigenous peoples such as the Gabrielino/Tongva. The difference here between state control of targeted violence (or targeted intolerance) and the transaction of state-permeated, sponsored and endorsed violence, even when explicitly or inexplicitly

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<sup>6</sup> "Los Angeles County Commission on Human Relations: A 25-Year History 1944-1969 & Biennial Report 1967-1969" (Los Angeles County Commission on Human Relations, Los Angeles, CA), 6. Accessed May 25, 2017. <http://www.lahumanrelations.org/publications/docs/a25yearhistory.pdf>.

<sup>7</sup> See "About the Commission," Los Angeles County Human Relations Commission, accessed May 8, 2017,

<http://www.lahumanrelations.org/about/index.htm>.<http://www.lahumanrelations.org/about/index.htm>From

<sup>8</sup> Horne, Gerald, *Fire This Time: The Watts Uprising and the 1960s*, Charlottesville: University of Virginia Press, 1995.



targeting a population, is the imagined and ideological threat such groups have on “national security” or the existence of that proclaimed statehood.<sup>9</sup>

Los Angeles County thus, in its pro-rainbow carceralism, continues to serve a complex political geography that has been nationally recognized as a model site for LGBT-friendly policing and imprisonment reform. Enacted and refined over the course of several decades, like California generally, Los Angeles County has historically served as a national blueprint for addressing bias-motivated violence through decades-long investments in LGBT and diversity-sensitive law enforcement trainings, establishment of county agencies such as the Human Relations Commission (established in 1958) and expansion of policing and imprisonment technologies set to track and speculate social risk, such as the KG6 Unit of the Men’s Central Jail (formerly K-11, established in 1985). Los Angeles has demonstrated that LGBT and antiracist legal, prison, and police reform can exist conterminously, even in a harmonious relationship, to the technological advancement of targeting criminalization poverty and racialized embodiment.

These decades of reform also harbored instances of police violence that targeted and entrapped queers for sexual perversion, cross-dressing, and various forms of sex crimes and ‘lewd behavior.’ These included the Los Angeles Cooper Donuts Uprising in 1959 and the New Year’s Day riot at the Black Cat Tavern in Silver Lake in 1967, when the Los Angeles Police Department (LAPD) promoted their “trailblazing” efforts to crack down on perversity of homosexuality, gender nonconformity, cross-dressing, and

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<sup>9</sup> Jeffery Sacks discusses the term “targeted intolerance” at the “Countering Islamophobia: Anti-Racist Responses to Violence on Campus” panel at the University of California, Riverside, in 2015.

transsexualism, particularly targeting those who congregated in poor urban areas of Los Angeles, and impacting those who were criminalized as being non-white and/or poor. As an example of a decades-long transition from social dereliction to social protection, particularly in the arena of the institutionalization of training on LGBT issues and hate-crime intake and reporting, one could narrate the county's improvements as a kind of win. However, in reality, such reforms actually offered only a performative mode of inclusionary and representational politics where such nominal wins are perhaps applicable exclusively sectors of the community that frame wins as protecting assimilation into the status quo. The concept of pinkwashing, a terminology that activists created to capture the LGBT (pink) whitewashing performed by institutions or entities that market themselves as gay friendly, has held special cachet in reference to Israel's use of gay-inclusive militarism and tourism as a mode of violently displacing and controlling Palestinian land and communities. As the bond between the LAPD and Israel was formed over time when Chief William J "Bill" Bratton (LAPD's fifty-fourth chief of police, 2002–2009) took official business trips to Israel, sharing and gaining training in the tactics of militarized policing, riot control, shopping technology of drone manufacturing, private security, surveillance technology, and big data, pinkwashing took on a transnational reverberation.<sup>10</sup> While Los Angeles continues to consider itself to be an

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<sup>10</sup> Referencing the documentary *Pinkwashing Exposed* in which he directed, Dean Spade writes, "Pinkwashing" is a term activists have coined for when countries engaged in terrible human rights violations promote themselves as "gay friendly" to divert attention from terrible human rights violations, in this case diverting attention from the brutal colonization of Palestine. Israel is the country most famous for pinkwashing, engaging it as a strategy in their rebranding campaign for the last decade." See Dean Spade, "Pinkwashing Exposed," accessed May 1, 2017, <http://www.deanspade.net/projects/pinkwashing-exposed>.

LGBT safe haven, with a velvet-glove policy of policing and incarceration, issues of systemic racism and poverty have reached new heights.

On September 25, 1984, the California legislature approved senate bill 2080. The bill was sponsored by Diane Watson, who was serving as state senator representing California's 28<sup>th</sup> District (Watson would later go on to serve as a member of the US House of Representatives and as ambassador to Micronesia under President Bill Clinton). When proposing SB 2080 in 1982, which established the Racial Ethnic and Religious Crimes (RERC) Project, Senator Watson, whose father was a police officer and whose mother was a postal worker, was most interested in issues of public education and public health, particularly for those who were marginalized due to poverty and gender and racial discrimination. Her political career, which ultimately spanned nearly four decades, began as a board member of the Los Angeles Unified School District, on which she served from 1975 to 1978. Although Watson became the first African American woman to serve as California senator when she won her senate seat in 1978, she sought recognition beyond her race identity. In 2009, Watson would go on to endorse and be key supporter of the Local Law Enforcement Hate Crimes Prevention Act.

SB 2080 earmarked \$75,000 to test a six-month pilot project through the CADOJ. The bill states, "The Legislature further declares that exposure of the facts about racial, ethnic, and religious crimes will lead to greater public awareness of the problem of bigotry and prejudice and will provide a foundation for developing remedies to the

problem.”<sup>11</sup> Describing the goal as a “statewide information center” that would both receive and evaluate incoming data on RERC, the goal was stated as providing “a precise picture of the geographic distribution of these crimes and trends over time.”<sup>12</sup> This pilot program sought to develop a landscape that would endeavor to illustrate the epicenters and hotspots in which racial, ethnic, religious, and sexual orientation bias crimes occurred. The goal of mapping crime in such a way and from the position of law enforcement and criminal-justice state actors was to demonstrate the need for future crime prevention.

Berlant’s *actuarial imaginary of biopolitics* allows us to imagine how the assessment of risk became inculcated through the performance of objective instruction of data.<sup>13</sup> Section 13872 of SB 2080 states:

The crimes that shall be the focus of this chapter shall include a wide variety of incidents, which reflect obvious racial, ethnic, or religious motivations, ranging from vandalizing a place of worship to assaults between members of gangs, including, but not limited to, incidents that occur on school grounds and between gang members and any other incidents that law enforcement officers on a case-by-case basis identify as having a racial, ethnic or religious motivation. They shall not include incidents of discrimination in employment.<sup>14</sup>

Both the tone and tenor of the mandate of the report evoke the range of hate-motivated criminality from external bias upon a place, property, or worship to intra-gang-member violence. The late-1980s saw an upsurge in measures aimed at addressing gang activity,

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<sup>11</sup> “Racial Ethnic Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data,” (California Department of Justice Pursuant to Senate Bill 2080, January 1986), appendix 1.

<sup>12</sup> Ibid.

<sup>13</sup> Lauren Berlant, “Slow Death (Sovereignty, Obesity, Lateral Agency),” *Critical Inquiry* 33, no. 4, (Summer 2007): 754-780.

<sup>14</sup> RERC Project Report, appendix 1.

or what was called “street terrorism.” Ruth Ann Gilmore states, “The [California] legislature commissioned a State Task Force on Youth Gang Violence in 1984...” which reported finding to legislature in 1986, and thus the advent of the 1988 “Street Terrorism Enforcement and Prevention Act (STEP Act, Penal Code Section 186.22 or 186.20-186.34).<sup>15</sup> In 1986, Los Angeles County began to input gang-activity into their crime databases; this would later be challenged for accuracy in the culmination of gang-member lists as tied to gang-injunction legislation and policing in Los Angeles.<sup>16</sup> Gang enhancements and hate-crime enhancements were two of the notorious and intertwined strands of “antiviolence” crime-prevention and pro-penalty legislation that tested the constitutional litmus of penal sentencing. Both demanded that sentencing be extended and enhanced based on involvement of bias (hate) or gang affiliation. From the 2001 Attorney General’s Civil Rights Commission Report through the 2009 forum on LGBT community policing, in reviewing the efficiency and uniformity of hate crimes against LGBT communities in Los Angeles, police officers continued to report the confusion about whether particular acts of violence should be considered gang affiliated, bias affiliated, or both.

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<sup>15</sup> Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Los Angeles: University of California Press, 2007), 107. For more information, see Erin Y. Yoshino, “California Gang Enhancements: Lessons from Interviews with Practitioners,” *Review of Law and Social Justice* 18, no.1 (2008).

<sup>16</sup> See “Tracked and Trapped: Youth of Color, Gang Databases, and Gang Injunctions: A Report by the Youth Justice Coalition’s REALSEARCH Action Research Center” (Youth Justice Coalition, Inglewood, CA, 2012), accessed May 25, 2017, <http://www.youth4justice.org/wp-content/uploads/2013/07/Tracked-and-Trapped.pdf>.

In their simultaneous efforts in the mid-1980s to tackle issues of increased visibility of particular types of bias-motivated violence, organizations throughout Southern California, particularly in Los Angeles, invested in the expansion of the carceral state, the prison-policing industrial complex, as a mode of protecting. In addition, by framing bias-motivated/hate or gang-related (street terrorism) crimes as “new,” statistical research locating where such crime was most saturated was applied only to longitudinal studies of crime rates, frequencies, and geographies, further deploying the logic of crime research and crime data as the best means of crime prevention and pre-crime profiling. The development of what was to be called hate-crime laws, and specifically anti-bias violence or anti-gay-violence efforts following the 1960s and 70s homophile movement, followed in the late-1980s move towards a progressive politics, what Christina Hanhardt details in the fourth chapter from *Safe Space: Gay Neighborhood History and The Politics of Violence*’s, “Visibility and Victimization: Hate Crime Laws and the Geography of Punishment, 1980s and 1990s.” Through linking the expansion of hate crime laws to the criminalization of geographic place, space and property, Hanhardt describes the ways in which antigay violence (like the growing legitimacy of anti-trans violence) garnered the status of a “national-juridical category,” which not long after, through the export of hate crime legislation to Canada and western nations in Europe, would become a transnational-juridical category.<sup>17</sup> The penchant to underscore the substance of violence *as* crime and thus trans/national-juridical category only garnered

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<sup>17</sup> Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, NC: Duke University Press, 2013), 178.

more cache through the federal mandate to gather the enumeration of crimes through the 1990 Hate Crimes Statistics Act, thus directing inter and intra-statewide participation nationally across the U.S.

Even as the crime statistics by the FBI would welcome more incident-based reporting through the National Incident-Based Reporting System (NIBRS), offering a more comprehensive version of uniform crime reporting (UCR), regardless, hate crime data would remain largely UCR in form. Hanhardt further writes, in an almost expected parallel of IBR/NIBRS to UCR, and perhaps speaking volumes to the co-constitution of antiviolence movement to the state's cooptation of such:

Moreover, as was the case in the field of criminology more generally, the antiviolence movement's own conception of evidence increasingly narrowed as the language of legislation shifted from mandating the collection of *information* to that of more systematized *data*.

As the 1980s ushered in a period of bias-motivated crimes legislation, California would remain the first state to introduce a hate crimes statute (CA Section 190.2), as that which would allow for any murder charge to face a penalty enhancement if there was evidence of prejudice. The protected categories then were only race, religion, color and national origin, similar to the anti-discriminatory federal statute Civil Rights Act of 1968 (18 U.S. 245). Prior to the Racial Ethnic and Religious Crimes project of California in June to September of 1985, the earliest U.S. legal introduction of the category of "sexual orientation", Los Angeles County was one of the first counties to develop extensive documentation on bias-motivated violence, following in the footsteps of similar data collection by the Baltimore and the Boston Police Department (Community Disorder Unit, established in 1978), and the New York Police Department (New York City

Commission on Human Rights, 1984).<sup>18</sup> The purpose of crimes-data collection was nearly always to justify the demand for further resource allocation to police departments that needed to generate evidence of need for units dedicated to address inter-community conflict, as was the case for superintendent William Johnston, then commander of the Community Disorder Unit of Boston.<sup>19</sup> At the same time of the expansion of new crime data technologies and funding to support new bias-motivated crime prevention programming by LAPD, 1983 also marked the year in which LAPD's then spying unit overseeing majority leftist organizational activities, Public Disorder Intelligence Division (PDID, est. 1970), was successfully dismantled as direct result of a lawsuit organized by the ACLU and grassroots organization Coalition Against Police Abuse (CAPA).<sup>20</sup> PDID would only be slowly replaced with a more well-resourced Counter-Terrorism and Special Operations Bureau (CTSOB), advising Department of Homeland Security on strategies to target violent extremism. In the height of the development of law enforcement operations and infrastructure to log and control 'gang suspects', in 1991 CAPA went on to demand a Civilian Police Review Board (Community Control of the

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<sup>18</sup> I intend to do further research on how Baltimore Police Department constructed their guidelines, but based on current knowledge of research in the field, it is likely a combination of recommendations, suggestions and feedback internally from local and cooperating police departments and Department of Justice, and already, as seen in the CA 1986 RERC report, with much emphasis on concerns with doubly or creating unwanted additional labor on officers and rather how possibly to make RERC intake and reporting uniform, consistent and less additional work for departments. I gauge this is in part an effort to have further participation and buy-in from other like agencies.

<sup>19</sup> Jack McDevitt and Janice A. Iwama, "Challenges in Measuring and Understanding Hate Crime," in *The Handbook of Measurement Issues in Criminology and Criminal Justice*, First Edition, ed. Beth M. Huebner and Timothy S. Bynum (West Sussex, UK: Wiley & Sons, Inc., 2016), 132-133.

<sup>20</sup> Vargas, João H. C. *Catching Hell in the City of Angels: Life and Meanings of Blackness in South Central Los Angeles*. Minneapolis: University of Minnesota Press, 2006, 121.



Police!) to curb the use of ‘gang activity’ as designating unlimited power to the LAPD.<sup>21</sup> These seemingly reform efforts, like what decades later would be similar in tactic to Dignity Power Now’s (Coalition to End Sheriff Violence in LA Jails/C2ESV) campaign for a Civilian Review Board to oversee abuses by the Los Angeles Sheriff Department (LASD). Such initiatives sought to dismantle power from within, even if through tactics of re-forming the infrastructure of law enforcing institutions. The difference between community-leveraged initiatives of forcing reform as a means to disorder carceral power must be distinguished from reform as initiated from within institutions as a mode of expanding and seemingly decentralizing or sharing power through opportunities community-partnerships. In other words, regardless, how do all such efforts at redirecting power away from the criminal justice system through facets of the very institution, only re-cycle delimited prospects for recognizing the reach of state violence?

### **States of Reform and Carceral Entrapment**

How might having a multiplicity of strategies, including reform efforts and advocacy via state partnerships and cooperation with state entities, forfeit possibilities for dis-recognizing or dis-ordering the expansive power of the criminal justice system and its prisons and law enforcing entities? The telos of reform is a means, end, and circuitous process in which entities and institutions can only improve in their authority to impose their rule. Lest we forget, the criminal justice system, policing, and carcerality were

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<sup>21</sup> Ibid, 190.

themselves born out of a strident reform movement against corporal punishment.

Independent scholar and longtime community organizer Mariame Kaba writes,

An important abolitionist insight is that most prison reforms tend to actually entrench the prison system and expand its reach. [Nineteenth] century reformers, for instance, created women's prisons to ameliorate the brutal conditions faced by women who had to share quarters with men in prison. But the result was that exponentially more women were incarcerated.<sup>22</sup>

Through three distinctive decades (the 1980s, 1990s, and 2000s), the enterprise of hate crimes faced various periods of cultural, legislative, and social-movement change. First, against the backdrop of the 1980s era of Reaganomics and the 1984 Summer Olympics<sup>23</sup> in Los Angeles, the expansion of the 1968 Civil Rights Act sought to move beyond racial, ethnic, and religious bias through the advocacy by primarily white, cis-gendered, homosexual men who fought for the adoption of sexuality as a protected class. The division between race and sexuality, and likewise between race and gender, flourished through the development of distinct categories that signified types of hate crimes. Meanwhile, in Los Angeles through the LAPD, anti-gang-violence initiatives and the criminalization of the crack epidemic through the invention of units such as Community Resources Against Street Hoodlums (CRASH)<sup>24</sup> and Special Weapons and

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<sup>22</sup> Mariame Kaba, "Free Us All: Participatory defense campaigns as abolitionist organizing," *The New Inquiry*, May 8, 2017, accessed May 8, 2017, <https://thenewinquiry.com/free-us-all>.

<sup>23</sup> Officially known as Games of the XXIII Olympiad or 23<sup>rd</sup> Olympics, the 1984 games produced a record 223 million USD profit for the International Olympic Committee, setting a new standard for model goals for future games.

<sup>24</sup> Formed in 1979 by the LAPD, the unit was first established under the moniker "Total Resources Against Street Hoodlums" or TRASH. This intentionally maligning acronym was replaced with CRASH after community activism and push back, only to have the unit superficially renamed to CRASH, and in the early 2000s CRASH was eventually replaced with a more institutionalized LAPD anti-gang unit.

Tactics (SWAT), respectively, sought to promote a vision for Los Angeles in which reform against hate violence and gang violence could only embolden the power of law enforcement and make way for more interest and buy-in for community-oriented policing. Second, in the 1990s, the 1992 Los Angeles Riots/Uprisings/Rebellion became a turning point for the incorporation of community policing as a national reform effort, including multicultural- and diversity-centered recruitment in the LAPD and LASD. The events of 1992 precipitated the resignation of longstanding LAPD Chief William Parker, who was replaced by Willie Williams, LAPD's first African American police chief. Such community "representational" reform, in concert with the expansion of uniform crime reporting via the 1990 Hate Crimes Statistics Act and the 1994 Violent Crime Control and Law Enforcement Act, sought to tell a story of progress in American policing, with Los Angeles at the center of these more progressive shifts.<sup>25</sup> With the turn of the twenty-first century, the 2000s benchmarked a shifting period in which post-9/11 counterterrorism efforts ushered in normative practices of anti-Arab and anti-Muslim surveillance and profiling in the name of antiviolence strategies of state security. This occurred alongside the passage of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act (2009), a legislative measure focused specifically on the inclusion of sexuality and gender.<sup>26</sup>

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<sup>25</sup> Specifically in relation to the Violence Against Women Act (VAWA) and the tension between particular conceptions of gender that were not explicitly made a protected class under the hate crimes legislation throughout the 1990s.

<sup>26</sup> This new research will demonstrate why exactly gender (particular forms of gender) and disability, although reintroduced in this new passage with the protected class of sexuality, functioned separately and as a supplement in the National Defense Authorization Act for Fiscal Year 2010.

Among these three historical periods, there lies a cycle of developing partnerships between cooperating state agencies and hand-picked community representatives as deliberate strategies of social anesthesia and “riot control.” Further, the development of hate crimes under a conceptual triad of carceral feminism, pinkwashing, and multicultural post-racialism, further illustrates the repetitive state strategy of reform in the name of community partnerships as no less than the innovation and expansion of punishment-centered antiviolence policy and programming. Originally published in 1975, *Iron Fists and Velvet Gloves* outlines and predicts the rise of capitalist class-controlled modernity through the enshrinement of policing as an unshakable institution offered the “integrally intertwined” dualism of overtly oppressive (iron fist) and the more “community-oriented” service (velvet glove). In describing the iron fist, the text reads:

Overtly repressive police action (the *Iron Fist*) functions within a liberal democratic framework because the ruling class in an advanced capitalist society generally finds democracy as its best state form. This framework provides a greater potential for cooptation of the working class and for mystification of power relationships. The capitalist state places great emphasis on the legitimation of state power.<sup>27</sup>

The Iron Fist of policing is not simply historically a thing of the past, as technologies of surveillance and policing have only become more covert and seemingly innocuous, instead, it is the legitimization of state power as rationalized through models of community safety and ‘buy-in’ that mark the 21<sup>st</sup> century progressive reform models of kinder and gentler policing.

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<sup>27</sup> J. Tony Platt et al., *The iron fist and the velvet glove: An analysis of the US police* (Berkeley, CA: The Center for Research on Criminal Justice, 1975).

The velvet glove is described as follows:

The police institution masks its central class control function behind various kind of public service- helping people in trouble, solving a few dangerous crimes, directing traffic and providing public information. There and other “community relations” activities constitute the *Velvet Glove* side of police work. It is important to see both sides as integrally intertwined.<sup>28</sup>

How then does such daily and historical acts of violence continue to exceed the promise of protection via law enforcement intervention by targeting communities as being inherently criminalizable (sex workers, those formerly incarcerated, the undocumented, the homeless, those with addictions to criminalizable substances, and the racially profiled)? At what costs and with what tensions do we invest in hate-crime activism, or even when asking for inclusion in these terms? What forms of survivability are made possible through these avenues? What forms of survivability make necessary the existence of tactics of inclusion and reform negotiations?

In unpacking these optics of reform over the course of three decades from around 1984 to 2014, such carceral investments have only expanded the capacity of law enforcement agencies to become synonymous with both first responders and community safety. The goal, then, is to ask questions about why and how transformative approaches that invest in immediate community responses have been deterred, and to ask with more precision how any investment in curbing identity-based violence and harm, from the structural to the interpersonal, must require a disarming and defunding of law enforcement rather than a constant process of improved funding, refinement, and expansion of such agencies. The

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<sup>28</sup> Ibid.

development of hate crimes as enshrining a model of community-safety and calling on community participation is central to both the new telos of progressive policing that is quintessential to LAPD, the official uniformed protective force of Los Angeles County. Given this new velvet glove image of LGBT and diversity-initiatives in recruitment, without pause, both Los Angeles and its law enforcement continues to offer a transnational blueprint for a militarized policing and technological advancement for the world.

In their critical formative 2000 article, Dean Spade and Craig Willse write:

Hate crimes statutes achieve results similar to the ‘formal race’ jurisprudence. The focus of hate crimes legislation is the punishment of individuals whose racism (or homophobia, transphobia, xenophobia, etc.) results in violent crime against members of a subordinated group. A message of hate crimes activism is that these people are the real problem, and putting hate crimes activism high on an anti-homophobic or anti-racist agenda says that, even if there are other people or institutions who subordinate, it is these violent individuals with whom we are most concerned. Such a focus constructs a world in which the racist/not racist or homophobic/not homophobic line is drawn at the point of violence and excuses an ignorance of the myriad systemic and institutional manifestations of subordination that do not rise to the level of physical violence.<sup>29</sup>

Nearly two decades later, this critique still rings true. The very discourse in which interpersonal and individuated violence has been detached from systemic, structural, historical, and institutional violence has become the overreaching popular conception and figuration of violence not as an operative process or structuring force but reducible to bounded exchange. Such figurations of violence have only emboldened reform of carceral and law-enforcement power; whether it be an individual’s criminal record or an officer’s record of conduct, the issue is circumscribed by individual bad apples,

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<sup>29</sup> Dean Spade and Craig Willse, “Confronting the Limits of Gay Hate Crimes Activism: A Radical Critique,” *UCLA Chicano-Latino Law Review* 21 (2000): 46.

respectively, ones who have failed to abide by the law and or one's who have failed to appropriately enforce it. The individuation and exceptionalization of particular groups, whether as victim or perpetrator, functions to over-generalize, through legal discourse and formal categorization, a fungible "hierarchy of oppression" that can be narrated to gain traction and power for particular singular identity-based community-organizations while normalizing the violence of others (at the intersections.) That is to say, historically since the official gathering of hate crime data, and to this day, the steadiness and reported hate crimes remains a majority of anti-Black violence, yet it is through other more legibly different ethnic and sexual orientation and religious difference that community-partnerships on tackling hate crimes with LAPD have been (eg; Anti-Defamation League, Asian Pacific American Legal Center, L.A. Gay and Lesbian, Muslim Public Affairs). Such processes of shared legibility, through materially consequential state institutions, have formed an often overpowering, coercive dialectic with social-movement identity politics, a process of group individuation that results in violent exceptionality and erasure of inextricably compound and enmeshed embodiments. Political journalist Jim Sleeper stated:

Identity politics makes race, ethnicity, gender and sexuality orientation into the primary lenses through which people view themselves and society. It tends to encourage new and old minority groups to withdraw from—or assault—a mistrusted "majority" culture in the pursuit of their separate communal destinies.<sup>30</sup>

Sleeper reiterates the common notion that categorical definitions and groupings are

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<sup>30</sup> Jim Sleeper, "The Politics of Hate Crime Laws," in *Hate Crimes: Criminal Law & Identity Politics*, ed. James B. Jacobs and Kimberly Potter (New York: Oxford University Press, 1998).

wholly signified through legal categories of protected classes (for example, race, ethnicity, gender, and sexuality) and then somehow operate as discrete entities of non-overlapping groups. This common notion of non-intersectional identities assumes and makes most legible distinctly generalized political-group interests, thus enacting limits on the political imagination of “separate communal destinies” as simply a given. This summation of “race, ethnicity, gender, and sexual orientation” thus gets paraded as the necessary legible and legal silo in which one must rank all issues of oppression, harm, and self-inflicted crimes.

Sleeper is connoting a trend during the height of anti-hate-crime activism (the late 1980s through the mid-2000s), particularly through the multicultural diversification of legal categories and antiviolenace social services and/or nonprofits serving minority or marginal-group issues. However, his narrative offers little challenge to the prevailing violent revocation of the welfare state by the United States and the United Kingdom in favor of a more conservative, pro-policing, pro-criminalization model of neoliberal individuation—a narrative in which the state is the victim of exploitation by the “lazy” and “impoverished” (read, brown, Black, and non-white poor). Further, identity-based funding streams and marginal-identity-group-based models of advocacy built models that sought to explain why each particular group had its own particular need. In such a myopic narrative, one easily misses the highly creative ways in which people built trust, collective power, and coalitions, despite the defined boundaries of group identify.

Whether intentionally or not, such organizing via particular groups, and thus the critique of such groups, brought attention to particular conditions by which certain socio-



economic margins and margins delimited by race, gender, sexuality, and ability are invisible and therefore often overlooked when it comes to basic everyday survival. In *Some of Us Did Not Die*, June Jordan writes, “Freedom is indivisible, and either we are working for freedom or you are working for the sake of your self-interests and I am working for mine.”<sup>31</sup> June Jordan speaks against the laissez-faire capitalist ideology of individuated freedoms and calls for a genealogy of a more radical collective freedom beyond the perpetual empowerment of white, male, property-owning, US-born, able-bodied citizens and their legacies. Likewise, indigenous Murri artist Lila Watson and Queensland aboriginal activist groups of the 1970s are attributed with collectively developing the popular social-justice motto, “If you have come here to help me, you are wasting your time. But if you have come because your liberation is bound up with mine, then let us work together.” Jordan and Watson offer us an alternative political imagination that is not dictated by the perimeters of legal legibility or freedom in a multicultural white-settler marketplace. How then do we contend with the ripe contradictions of often surviving (in spite of and/or in tandem with) the development of legal protections, while enabling material social welfare for all beyond state-sanctioned legibility or diversification of direct social services? In considering the ways in which notions of democratic freedoms are more squarely violent in figuring (un)human as always racialized and gendered subjects, Mimi Thi Nguyen writes in *Gift of Freedom*:

The injurious properties of freedom are well documented in the complicity between philosophical discourses of human consciousness and metaphysics of racial and sexual difference since the Enlightenment.

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<sup>31</sup> June Jordan, *Some of Us Did Not Die* (New York: Basic/Civitas Books, 2002).

Intruding here is the brutal history of violence operating—insidiously and insistently—through the instrumentalization of colonial cartographies and racial classifications that sort and grade stages of human being. These cartographies and classification schemata are central to the genealogy of human freedom, not exceptional to it.<sup>32</sup>

For Nguyen, the underpinnings of “human freedoms” have been co-constituted through discourses from racial, gendered, and sexualized difference and classifications. Such classifications have been adapted, reformed, and altered to instrumentalize a more culturally competent and tolerant form of post-genocidal colonial cartography; whether through neoliberal international war tribunals, the United Nations Declaration of Human Rights, or even the Declaration of Rights of Indigenous Peoples, the adaptation of human freedoms has been usurped by the framing of a global-rights discourse.

Jayes Sebastian’s interdisciplinary research unpacks human-rights discourse as fundamentally rooted in notions of early liberal humanisms via the sixteenth-century Spanish Roman Catholic Renaissance theologian Francisco de Vitoria, who was dubbed the father of international relations and law.<sup>33</sup> Similar to the globalizing of human rights, the expansion of legal categories of protected classes within the reform of hate crimes seeks to perform a trajectory of comprehensive becoming, that is, a perfectability of original exclusionary schemas that only made sense through population control of non-whites (savages, slaves, servants, uncivil others) or accounted for settler-colonial assets via racialized and gender-nonconforming bodies. However, in a moment when self

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<sup>32</sup> Mimi Thi Nguyen, *The Gift of Freedom: War, Debt, and Other Refugee Passages* (Durham, NC: Duke University Press, 2012), 15.

<sup>33</sup> Jayes Sebastian, “The Promise of Rights: Colonialism and the Legality of Systems of Power,” (Ph.D. dissertation (in-progress), University of California, Riverside, expected 2018).

accounting and interceptions to such seemingly universal frameworks for human freedoms have been challenged, how then has the institutionalization of intersectionality propagated and normalized ideologies of white-supremacist multiculturalism, administering the critical reach of intersectionality to only that which is then integratable into state power and structures? In *Mapping the Margins*, Kimberle Crenshaw offers a groundbreaking legal critique illustrating how even through the reform of law, multiplicity of marginalizations have only exacerbated—and continue to exacerbate—the margins of the margins, particularly those at the binding intersections of racism and sexism (e.g., black women, trans, femme, and, cis).<sup>34</sup> The issue then of singular identity markers and movements, and thus the erasure of the margin of margins, is the imperative to unite differences through their dissolution. Hanhardt aptly notes,

Kimberle Crenshaw argues that “the problem with identity politics is not that it fails to transcend difference, . . . but rather the opposite—that it frequently conflates or ignores intragroup differences.” She criticizes the use of a gender-only lens to analyze the problem of violence against women because it fails to show how race, gender and class affect a broader political implications, and variety of victims, of violence.<sup>35</sup>

With the intervention of illustrating what has now become extracted “intersectionality,” Crenshaw, in conversation with Black feminist thinkers and sources, such as Frances M. Beal’s political pamphlet from two decades prior, “Double Jeopardy: To Be Black and Female” works critically to exemplify the inextricability of sexism and racism from issues of labor exploitation. The historical intervention of intersectional

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<sup>34</sup> Kimberle Williams Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color,” *Stanford Law Review* 43, no. 6 (1991): 1241-1299.

<sup>35</sup> Hanhardt, 167.

identity politics continues to produce necessary and generative conflict with a homogenizing politics of identity ‘as such’ that otherwise elides the centrality of difference. Unfortunately, such interventions have been integrated to reorganize state power, ensuring and enshrining only certain sanctioned forms of safety and (anti)violence, particularly ones in which poverty, capitalism, and class are made indiscernible as instructive modes of intersectional violence. Critiquing the very impetus and victim trappings of identity politics, James B. Jacobs and Kimberly Potter write:

Identity politics is fueled by a sense of resentment based upon victimization, discrimination, and disadvantage. What gives a group its character, status, and identity is its perception of mistreatment by the white, male, Christian, heterosexual “majority” as well as by other minority groups under the politics of identity politics, a victim group can assert a moral claim to special entitlements and affirmative actions.<sup>36</sup>

Unfortunately, Jacobs and Potter’s sentiments represent a commonsense notion that critiques identity politics not from an understanding of intersectionality but rather as a mode of garnering special entitlements that, under a perceived threat by the white, male, Christian, heterosexual, “majority,” assert a need for recognition of their identity formation. They further write, in all its problematic generalization, “Even minority groups that have been very successful in contemporary American society frequently stress their victimized and disadvantaged status.”<sup>37</sup> What Jacobs and Potter fail to demonstrate is an understanding of the complex conflicts within identity-politic formations in which contest, critique, and insurgent practices through social-justice

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<sup>36</sup> Jacobs and Potter, 66. Also see, “Joys of Victimhood,” *New York Times Magazine*, July 2, 1989, p.20; Sykes, Charles. *A Nation of Victims* (New York: St. Martin’s Press, 1992); Rauch, Jonathan. “Beyond Oppression,” *The New Republic*, May 10, 1993, pp.18-23.

<sup>37</sup> Jacobs and Potter, 66.

struggles far exceed their flat narration of how identity politics have been usurped by rights-based discourse and legislation via the criminal justice/punishment system that produce the very notions of victimization and affirmative action their critique seeks to associate with as a minority-driven tactic. In contrast to the critique of Jacobs and Potter, Dean Spade and Craig Willse focus rather on the ability of legal discourse to literally make empty whatever relations or entanglements are offered in the historical intervention of identity politics:

Furthermore, as other critics of hate crimes laws have written, the legal deployment of identity categories effectively erases the historical and cultural specificity of racial categories, rendering “race” a neutral signifier. In this formation, a racially motivated crime committed by a black person against a white person carries the same meaning as a crime committed by a white person against a black person. Thus, all transgressors must be treated equally, without any appreciation for the history in which the harms against which the ordinance guards are situated.<sup>38</sup>

Like certain extrapolated practices of identity politics, “conditional categories” of gender and sexuality-based violence have been placed in competition against race-based violence, producing fictions of dissectible conditional identities/persons and deadly erasures and consolidations within social groups. Whether for the sake of convenient typology, typification, or taxonomy, such logics create false parallels of analogous relationships in the legal world.

Since the mid-1980s, California state legislation has mandated the reporting, documentation, collection, and aggregation of what are now widely termed “hate crimes.”

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<sup>38</sup> Spade and Willse, 47.

Such conversations on how such crimes could be collected and deciphered were fixated on issues of accuracy and uniformity. What at its inception was legally defined as racial-, ethnic-, and religious-bias-motivated crimes would need to be able to be distinguished, documented, and collected as exclusively crimes of a particular bias, a literal de-intersectional approach to understanding violence on bodies who might or might not be targeted for a multiplicity of biases. In other words, the very existence of queer and trans people of color simply could not appear in terms of what was a state-legible recorded crime; instead, the insistence then was how crimes could be ranked in terms of hierarchy of importance and which crimes would be included in that ranking.

The 1986 publication “Racial Ethnic Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data” laid the groundwork for the first models of hate-crime reporting in the United States. This report—arguably the first of its kind—from the a commission of the California attorney general notated the legal recognition of sexual orientation as an individual equitable class of bias. Under the section “Inclusion of Crimes Motivated by Sexual Orientation, it stated:

At the beginning of the program model design, the Attorney General directed DOJ program staff to also collect data on crimes motivated all or in part by sexual orientation. Crimes against the gay/lesbian community may continue as the struggle for recognition and equality continues. The California Supreme Court stated in Gay Law Student Association v. Pacific Telephone and Telegraph Company, supra, 24 col. 3d: A principle barrier to homosexual equality is the common feeling that homosexuality is an affliction which the homosexual worker must conceal from his employer and his fellow workers. Consequently, one important aspect of the struggle for equal rights is to induce homosexual individuals to ‘come out of the closet,’ acknowledge their sexual preference and to associate

with others in working for equal rights.<sup>39</sup>

The twin formulation of recognition and equality, particularly in its adherence to “crimes against the gay/lesbian communities,” produced and reflected a seductive model for comprehending the needs of homosexual communities in which bias against sexual orientation was the largest threat to recognition and equality and where “affliction which the homosexual worker must conceal from his employer and his fellow workers” prioritizes coming “out of the closet.” Two assumptions of the report stand out: first, that the class of homosexuals who are being prioritized are those who are both gainfully and stably employed and whose largest complaint is the inability to socialize fully given their sexual preference; and second, that the central figure facing issues of bias because of sexual orientation cannot also be facing issues of racism, classism, ableism, or gender conformity. The transition between the 1980s gay and lesbian right-based social movements were only further earmarked by their drive to distinctly separate and exceptionalize their position as that which was otherwise invisible and neglected by wins from previous civil rights era of the 1960s. In other words, commonsense logics that would soon enclose the demand for the inclusion of sexual orientation, and similarly as followed by gender (both issues pertaining those identifying as cis-women and then trans\*), would further regulate the axiomatic singularity of such identity formations.

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<sup>39</sup> RERC Project Report, 2.

### **State Antiviolence: SB 2080, HCSA to VCCLEA (1984-1994)**

Twenty-two years after the Civil Rights Act of 1968, which offered legal protections based on race, religion, and national origin, the 1990 Hate Crime Statistics Act (HCSA, Public Law 101-275, later amended to become the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act) was enacted, mandating the reporting and collection of bias-motivated crime by the United States attorney general. Within one year, the FBI was working with volunteer agencies across the United States, many of which had already begun to collect similar data; the first report of these activities was published a year later, in 1992. Federal funding for the Racial Ethnic Religious Crimes (RERC) Program was only obtained in 1994, fully ten years after California's instrumental SB 2080, by which time all agencies were mandated to cooperate and report on bias-motivated crimes, specifically reports of California district attorneys on convictions or filings of bias-motivated crimes. California published its first comprehensive report in 1995 based on the first set of data, whose collection had begun in the fall of 1994 following both training and orientation of local, participating law enforcement agencies. Under the auspices of the Clinton administration, and in the same year as the Violence Against Women's Act (VAWA), the 1994 Violent Crime and Law Enforcement Act (VCCLEA) was enacted as the largest crime bill in the history of the United States. In an attempt to reduce crime through what is termed "community policing," the VCCLEA created such institutions as the Community Oriented Policing Services (COPS). But community-driven efforts to fight violence are largely usurped and repackaged by COPS strategies, policies, and research, and the focus remains the expansion of policing,



methods of criminalization, and imprisoning.<sup>40</sup> Even with the compiling of national statistics on hate violence against statewide and local statistics, or lack thereof (and that which is strategically neglected by COPS research), to NCAVP's DOJ funded community-based reports (1998–2014, ongoing), unequivocally renders state-inflicted violence incalculable. Since 1980, "The Los Angeles County Commission on Human Relations has compiled, analyzed and issued reports of hate crime data submitted by law enforcement agencies, fair housing councils, ethnic and religious organizations, and other concerned groups and agencies."<sup>41</sup> In that period of time, the commission also sponsored the Network Against Hate Crime, a broad-based coalition of organizations including the district attorney's Hate Crime Suppression Unit, Los Angeles City Attorney General's Office, law enforcement agencies, and civil-rights and educational organizations.

In the language of its reports, the network fosters "exchange of information, conducts preventive and educational programs, and advocates for legislation that strengthens criminal and civil penalties for hate crimes."<sup>42</sup> For instance, even the inaugural report from Los Angeles County in 1999 notes that "no gender-based or disability-based hate crimes were recorded by reporting agencies. Although the Commission believes that such crimes do occur with some frequency, they are not being

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<sup>40</sup> "The Office of Community Oriented Policing Services (COPS Office) is the component within the U.S. Department of Justice dedicated to the concept that trust and mutual respect between police and the communities they serve is critical to public safety... The COPS Office mission is to advance public safety through community policing." See "Community Oriented Policing Services," US Department of Justice, accessed January 2, 2015, <http://www.cops.usdoj.gov>.

<sup>41</sup> "County of Los Angeles Commission on Human Relations, July 2003 – June 2005 Annual Report," *Los Angeles County Human Relations Commission*, accessed May 2, 2017, <http://www.lahumanrelations.org/news/activities.htm>.

<sup>42</sup> "1999 Hate Crime Report" (Los Angeles County Commission on Human Relations, Los Angeles, CA, 1999), ii.

reported to law enforcement and community service agencies.”<sup>43</sup> Not only does this liberal turn toward inclusion of disability and gender-based hate crimes intend to showcase the forethought of Los Angeles County to lead the way in tracking such violence as early as 1999, it also shows that the gentle partnership that is being suggested to unearth such issues begins with the collection of reports displaying the cooperation between community service agencies and law enforcement. To this point, two years prior, the LAPD proudly described its 1997 establishment of a Hate Crimes Task Force and its integration of participating community organizations, including two anti-Semitism organizations, an Asian-specific legal organization, and a nonprofit social-service provider to the LGBT community. It states:

In 1997, the Los Angeles Board of Police Commissioners established a Hate Crimes Task Force consisting of members of the LAPD and representatives from community organizations such as the Asian Pacific Legal Center, Anti-Defamation League, Los Angeles LGBT Center and the Simon Wiesenthal Center. The task force members focused on the need to revise hate crime procedures, including the need to raise the level of command accountability within the ranks of the LAPD.<sup>44</sup>

The Los Angeles Police Department eventually implemented the Hate Crimes Monitoring Systems, one of the first of its kind in the world. The system expanded surveillance in order to identify and assess hate-crime patterns, determine likely times and locations of bias-motivated crime, and direct policing resources and efforts to these speculative locations. In an attempt to drum up support for the technological surveillance advances of

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<sup>43</sup> Ibid, 3.

<sup>44</sup> See “Hate Crime Circular,” Los Angeles Police Department, accessed May 5, 2017, [http://lapdonline.org/get\\_informed/content\\_basic\\_view/8808](http://lapdonline.org/get_informed/content_basic_view/8808).

the LAPD, the *Los Angeles Times*, one of country's largest metropolitan newspapers, published the brief article "Tackling the Haters," in July 21, 1999, stating:

There are often signposts for hate crimes, and new investigatory practices in use nationally and locally can help spot them. Right now, for example, the effort to bring the Los Angeles Police Department into the Information Age with the help of civilian computer experts may offer a payoff. Hate crime incidents are now stored on the department's recently opened Hate Crime Monitoring System.<sup>45</sup>

Finally, Los Angeles supplemented and enhanced its hate-crime training program, which was originally implemented in the late 1980s, asking for funding for more law-enforcement personnel, increasing from one deputy assigned to hate crimes to five and adding a hate-crime investigator and secretary. The price tag for this additional staffing was to be \$500,000. Victoria Pipkin, spokeswoman for the office of District Attorney Gil Garcetti, stated, "We know we're asking for more money, but in the long run, it will be well spent."<sup>46</sup> The requests for improving hate-crime intake was always focused on law enforcement rather than community services, even while noting the undeniable effectiveness of community-centered solutions for addressing bias-motivated violence. In other words, community solutions became a shorthand for community-oriented policing and diversification of tactics by law enforcement to build trust from communities that were already being policed, thereby wedging a greater divide between "good" citizens (innocent, hate-targeted victims) and guilty criminals (hateful perpetrators). Hate-crime

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<sup>45</sup> "Tackling the Haters," *Los Angeles Times*, July 21, 1999, accessed May 5, 2017, <http://articles.latimes.com/1999/jul/21/local/me-58322>.

<sup>46</sup> Bettina Boxall, "D.A. Seeks to Expand Hate Crimes Unit," *Los Angeles Times*, February 13, 1998, accessed May 7, 2017, <http://articles.latimes.com/1998/feb/13/local/me-18677>.

scholars Valerie Jenness and Ryken Grattet narrate Los Angeles' efforts to link issues of community-oriented policing with bias-motivated crime fighting as a collaborative effort:

Similar to these organizational responses occurring in Los Angeles, police in many jurisdictions are joining forces with local community leaders and school systems to respond to tensions between groups before they erupt into acts of violence and to assist with the creation of victim services to be made available when such acts do occur (Bruce Muramoto detective, West Sacramento Police Department, personal communication, June 14, 1999).<sup>47</sup>

As was reported, of all cases of hate crimes in 1997–8, 244 (more than half) involved juvenile defendants. Even in their potential underreporting, these statistics point to the construction of the figure of the criminal youth of color as one in whom “hate” is somehow narrated as being socially innate. In 1996, Hillary Rodham Clinton echoed the then-common liberal-democratic notion of the *superpredator* in a speech applauding Bill Clinton's implementation of community policing via the 1994 Violent Crime Control and Law Enforcement Act:

We're making some progress....Much of it is related to the initiative called “community policing.” Because we have finally gotten more police officers on the street. That was one of the goals that the president had when he pushed the crime bill that was passed in 1994....But we also have to have an organized effort against gangs. Just as in a previous generation we had an organized effort against the mob. We need to take these people on. They are often connected to big drug cartels, they are not just gangs of kids anymore. They are often the kinds of kids that are called superpredators—no conscience, no empathy. We can talk about why they ended up that way, but first, we have to bring them to heel.<sup>48</sup>

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<sup>47</sup> Valerie Jenness and Ryken Grattet, *Making Hate A Crime: From Social Movement to Law Enforcement* (New York: Russell Sage Foundation, 2001), 128.

<sup>48</sup> Hillary Rodham Clinton, campaign speech at Keene State University, New Hampshire, C-SPAN2, January 25, 1996, accessed May 6, 2017, <https://www.c-span.org/video/?69606-1/mrs-clinton-campaign-speech>.

The narrative of the handshake between community policing, select, participating community organizations, and organized law-enforcement efforts on the national, state, and local level was indeed intended to fight this new form of un-empathizing hateful other, the figure of the black or brown inner-city youth. Even as the majority of reported hate crimes were undeniably recorded as anti-black racism, instead of naming them as such, targeted, racialized violence became an issue of anti-black violence from gang-related crimes.

In the beginning of her speech, Rodham Clinton describes the idyllic communities of Keene, New Hampshire, and Keene State University: perfect New England autumn days filled with pumpkins and cakes; stable, two-parent homes that cherish children and regulate violent television and premarital sexual activity; and an ethos of community-service displayed by university student volunteers. The implication here is that there are some communities that nurture children and others that do not, communities that socialize supportive and responsible citizens and communities that socialize predatory and antisocial behavior. The conflict and distinction between a world like Keene and a world like Los Angeles is only corroborated by the violent-crime data. Rodham Clinton continues to refer to successful intervention in gang violence via reformatory tools such as mandating school uniforms in public schools to lower the risk of flagging gang colors, citing the success of this in its implementation in Long Beach K–12 public schools. With Los Angeles reporting some of the highest annual per capita rate of hate crimes in the country, Karen Umemoto and C. Kimi Mikami note:

Analysis of the data indicates that hate crime is a much more severe problem in Los Angeles compared to the rest of the nation. Nationally,

there were 46 reported hate crimes per one million persons in 1997. But in Los Angeles County, there were 92 reported hate crimes per one million persons for that same year. In other words, the rate of hate crime victimization in Los Angeles was twice that of the nation in 1997.<sup>49</sup>

With such concerted and incentivized efforts directed at expanding such models of community policing, in the late-1990s, law enforcement and Department of Justice efforts to address hate crimes redoubled, as Jenness and Grattet note:

In 1999, law enforcement officials at federal (Reno 1999), state (Bill Lockyer, “Announcement of Civil Rights Commission and Rapid Response Protocol for Combating Hate Crimes,” press release, State of California, Attorney General’s Office, August 16, 1999), and local (Betina Boxall, “DA Seeks to Expand Hate Crimes Unit,” Los Angeles Times, February 13 1998, B3) levels announced plans to redouble efforts designed to enforce hate crimes statutes. This is perhaps most pronounced in the creation of the special bias crime units across the nation.<sup>50</sup>

Again, even though anti-black racism was reported as the leading cause of hate crimes in the country, tactics for addressing bias-motivated violence in California generally and Los Angeles specifically only served to introduce more punitive measures of criminalization, thereby widening the divide between the “good” and the “bad” in the very communities and among the very demographics that hate-crime enforcement programs professed to “serve and protect.”

In 1999, five years after the introduction of the most comprehensive crime bill in United States history, then presidential hopeful George W. Bush remarked, “I’ve always said all crime is hate crime. People, when they commit a crime, have hate in their heart.

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<sup>49</sup> Karen Umemoto and C. Kimi Mikami, “A Profile of Race-bias Hate Crimes in Los Angeles County” (Working Paper Series, Lewis Center for Regional Policy Studies, University of California, Los Angeles, CA, 1999), accessed May 25, 2017, <http://escholarship.org/uc/item/1hq413zb>.

<sup>50</sup> Jenness and Grattet, 128.

And it's hard to distinguish between one degree of hate and another."<sup>51</sup> Bush said this in defense of his longstanding refusal to support federal legislation to counter hate crimes. Bush continued to express his opposition to hate-crime laws throughout his tenure, saying, in response to the reintroduction of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, that they create "special categories of victims." At this time, California led states and Los Angeles led US cities in having the greatest number of agencies participating in the reporting of hate crimes. In 2001, California published a "Reporting Hate Crimes—Final Report" via the California Attorney General's Civil Rights Commission (CAG CRC), issuing policy recommendations aimed at improving the reporting of hate crimes and exemplifying the delineation of categories of special victim. The constant reminder from efforts such as the CAG CRC is in centering issues of data intake and accuracy. More than twenty-two forums were hosted throughout California, with Los Angeles hosting five (more than any other municipality). These forums were intended to serve as a mode of community engagement in which space, time, and testimony were dedicated to effecting change in the development of policy and practice of combating bias-motivated violence via the reform of hate crimes.

Bill Lockyer, the acting attorney general at that time and an original sponsor of California's (and the nation's) first hate-crime legislation in 1984, strategically selected Fred Toyosaburo Korematsu as honorary chair of the Civil Rights Commission on Hate Crimes. Korematsu, a Japanese American civil-rights activist, was remembered as having

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<sup>51</sup> George H.W. Bush, "State of the Union Address," ThisNation.com, January 31, 1990, accessed May 2, 2017, <http://www.thisnation.com/library/sotu/1990gb.html>.

been an active objector of Japanese American internment during World War II and having worked with the ACLU in the case *Korematsu v. United States* to challenge the legality of the Japanese American internment. By selecting Korematsu, Lockyer aligned himself and the commission with the progressive civil-rights legacy of improving hate-crime legislation.

The two co-chairs of the commission were Joseph D. McNamara, retired chief of police of the San Jose Police Department and a strong proponent of community policing, then a research Fellow at the Hoover Institution at Stanford University; and Edward James Olmos, a prominent Los Angeles-based Mexican American actor known for his advocacy of Latino communities and at-risk youth. This pairing of pro-community-policing law enforcement alongside liberal community advocates suggests a carceral reform connection and collaboration across multiple spheres of influence. The backgrounds of the remaining forty-three of the forty-five members of the commission who made up the civil-rights committee is worth enumerating:

- Ten worked directly in law enforcement or as district attorneys.
- Nine were public officials or directors of human relation commissions in local counties.
- Seven represented specific ethnic-minority organizations.
- Four represented Jewish communities.
- Six were academics.
- Two were presidents of real-estate firms.
- One represented the LGBT community (the executive director of the L.A. Gay & Lesbian Center).
- One was from a disabled women's services organization.
- One was a lawyer.
- One was a director of Planned Parenthood and Intergroup Clearinghouse, a social services organization that supports hate crimes victims.
- One represented the African American communities and the National Association for the Advancement of Colored People (NAACP).



Since this civil-rights commission was intended to represent a diversity of organizations, leadership, and stakeholders, the polity of the commission was one of a post-racial “talented tenth.” As the objective witnesses and interpreters of community suggestions and feedback on issues of hate crimes, the commissioners assumed the role of unbiased participants in the undertaking. The very selection and makeup of the commission spoke loudly of the priorities and strategic limits of such forums.

The forums, which took place throughout California, sought to characterize hate crime as a community issue for which community participation was necessary for its management, and their emphasis on coming together on issues of improving the collection and reporting of hate crimes in itself was a reflection California’s progressiveness and its faith that the criminal justice system, especially through the attorney general’s office and leadership, knew best how to address bias-motivated violence. The report narrates the impact of the forum on participants:

Commissioners took away poignant stories that brought to life how hate crimes affect real people and ripple through our communities. While it was clear that many communities are responding and taking steps to address hate crimes, it also was clear that more needs to be done so California can truly reflect the wealth of its social and cultural diversity, and lead the way for a modern America.<sup>52</sup>

The report pivoted on California as a guiding force in a modern and diverse America and made a broad assumption that bias-motivated violence was equivalent to

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<sup>52</sup> Bill Lockyer, “Reporting Hate Crime: The California Attorney General’s Civil Rights Commission on Hate Crimes, Final Report” (CA, 2001), 1.

what was more colloquially understood as hate crime. The report offered community voices and testimonies with a closed objective, one in which the agreement that improving the quality of reporting, assessing, and aggregation of hate crimes would offer the most effective response to tackling such violence. From these community forums, the report summarized recommendations by which various law enforcement and state agencies could adjust their training, funding, and guidelines to improve the intake and classification of hate crimes. The report states:

The Commission further recommends that the California Commission on Peace Officer Standards and Training (POST) revise its training and guidelines to provide special emphasis on gender-based crimes, disability-based violence, hate-motivated crimes involving gang members, the difference between a hate crime and a crime of opportunity, and identification of a hate crime where there are multiple motives for committing a crime.<sup>53</sup>

The priority of this recommendation showcases the ways in which markers of disability and gender needed more directed provisions to emphasize the distinction among these otherwise overlooked categories, and clarification of the distinctions between gang violence, hate crimes, general violent “crimes of opportunity,” and crimes with multiple motives, all of which required better investigative tools (i.e., care and attention) and training (i.e., security and surveillance).

This distinction between care and conviction echoes the very dualism of the criminal justice system itself as a Möbius strip of self-preserving reform. This shifting dualism that characterizes criminal-justice-system reform is similar to the phenomenon of

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<sup>53</sup> Ibid, 4.

homeomorphism insofar as the admission of the inverse creates a mapping that preserves, without disruption, “the topological properties of a given space.”<sup>54</sup> In other words, the very shape and history in which hate crimes is possible as a reform of inclusion, while simultaneously maximizing penalties for youth of color who are suspected of gang activity, mirrors the extreme contours of the criminal justice system, which is classically homeomorphic in its “continuous stretching and bending of the object into a new shape.”<sup>55</sup>

The report continues by describing the collaborations necessary to address and “prevent,” through penalization, youth-of-color violence that is suspected of being related to gang activity:

Several law enforcement agencies expressed confusion as to whether youth gang violence should be reported as a gang-related crime or a hate crime when it meets the general criteria for a hate crime. County probation officers and custodial officers at juvenile detention centers, jails, the California Youth Authority and Department of Corrections need training on how to identify and report hate crimes. Some people working in hate crime prevention networks and several law enforcement supervisors and administrators complained about the lack of guidance as to when a violent incident between gangs of different racial and/or ethnic groups should be classified as a hate crime. Some supervisors and officers indicated that their internal routing procedures are different for hate crimes and gang-related crimes. As a result, they cannot classify an incident as both a hate crime and a gang-related crime, but rather must choose between the two categories. Another issue on which they sought clarification was whether violent incidents between youth who share the same ethnicity but who are immigrants from different countries should be classified as hate crimes.<sup>56</sup>

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<sup>54</sup> See “Homeomorphism,” Wikipedia, accessed May 5, 2017, <https://en.wikipedia.org/wiki/Homeomorphism>

<sup>55</sup> Ibid.

<sup>56</sup> Lockyer, 20.

According to this report, any progress in improving hate-crime classification will require an increase in penal classifications for youth of color. This conundrum of classification by these juvenile-processing institutions centers on identifying whether youth of color can be properly classified, doubly, as perpetrators of hate crimes *and* gang crimes, and whether crimes committed by youth of a certain combination of ethnic background and nationality, for example, can even be considered a hate crime.

What seems to exceed the neoliberal conception of hate crimes in these instances is whether violence with multiple motives (e.g., bias based on race, ethnicity, or nationality and on apparent gang territoriality) deserves a corresponding multiplier of the punishment, requiring, say, both gang enhancement and hate-crime enhancement. Distrust of law enforcement by LGBT and people of color, two demographics that don't overlap according to this schema, is raised as an issue of "reporting of hate crimes" to police officers or inability to report violence from the hands of law enforcement itself. In proclaiming an empty gesture of self-awareness, the report states:

The absence of reports of hate crimes perpetrated by law enforcement officers has diminished the credibility of law enforcement efforts to prevent and respond to hate crimes in some communities. People of color and advocates for gay, lesbian, bisexual and transgendered people in many of the local community forums held by the Commission indicated they did not believe law enforcement was concerned about hate crimes.<sup>57</sup>

These multicultural diversity forums sought to gather feedback on how the office of the California attorney general would move forward in reforming the condition and quality of hate-crime reporting and procedures. Questions of exactly what kinds of

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<sup>57</sup> Ibid., 18-19.

preventative or preemptive measures would be enacted to ensure the lessened capacity of law enforcement itself to commit bias violence was never breached. The performance of this civil-rights commission report, in which antiviolenace was only addressed through the assurance of expansion or adjustment of the decimal of state violence, suggests that the transcending issue throughout is with the counting of the hate crimes themselves (via such measures as improved categorization, expanded classifications, more rigorous collection, more precise determination, and uniformity in training and oversight).

Eric Stanley describes the sorts of documents that offer hate-crime statistics on anti-queer violence and that promise to improve hate-crime reporting as “reproducing the same kinds of rhetorical loss along with the actual loss of people that cannot be counted.”<sup>58</sup> The loss of what cannot be counted, and what cannot be accounted for, does appear in this civil-rights commission report. In an effort to circumscribe and contain the voice of community resistance, it states:

They [LGBTQ community] argued that if law enforcement cared about preventing and responding to hate crimes they would do a better job of addressing hate crimes committed by law enforcement officers themselves. A number of people complained they had no viable way to report hate incidents and hate crimes perpetrated by law enforcement officers. All law enforcement agencies have procedures for making complaints against law enforcement officers. However, there are no special provisions for filing a complaint against an officer for committing a hate crime. Several persons also indicated that members of their communities fear retaliation if they use the existing complaint system to report a hate incident or hate crime perpetrated by a law enforcement officer.<sup>59</sup>

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<sup>58</sup> Eric Stanley, “Near Life, Queer Death: Overkill and Ontological Capture,” *Social Text* 107, Vol. 29, No. 2 (2011): 6.

<sup>59</sup> Lockyer, 18-19.

Point nine of the sixteen-point recommendation plan lists the response to such feedback as expansion of law enforcement participation and training via a task force of representatives who would work alongside community organizations to “facilitate the reporting of and response to allegations of hate incidents or crime perpetrated by law enforcement.”<sup>60</sup> Revealing its own preconceptions, the commission stated that it was “also unaware of any report of a peace officer having committed a hate crime.”<sup>61</sup> The committee’s inability to formally admit that law-enforcement violence was a legitimate issue while at the same time acknowledging its identification by the communities it vetted to report on issues of hate crimes—and its quarantine of the problem to the realms of policy and procedures—is emblematic of community policing reform itself as an expression of state antiviolenence violence.<sup>62</sup>

In 1998, the California Department of Justice (CADOJ) issued a four-volume report of policy recommendations for agencies participating in the intake and reporting of hate crimes. The report comprised officer guidelines, detective investigations, a training curriculum, and commanding-officer oversight. In addition to the participation of the CADOJ and the National Association of Attorney Generals, the report included input from the International Association of Directors of Law Enforcement Training Center (IADLETC), the US Department of the Treasury, and the Anti-Defamation League

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<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid. The recommendation concludes, “A special task force, consisting of people who represent communities concerned with reporting hate incidents and hate crimes perpetrated by officers, as well as people familiar with law enforcement procedures for receiving and responding to complaints against officers, should look further into this issue and develop model policies and procedures.”

(ADL).<sup>63</sup> This 1998 report became the first standardized curriculum for law enforcement across states and within the federal government (US Department of Justice 1998).<sup>64</sup>

The collaboration of the ADL (originally established as an outgrowth of B'nai B'rith) with law enforcement and the CADOJ was not unusual. Hanhardt cogently describes the asymmetrical relationship in which the ADL more readily formed mutual partnerships with national gay and lesbian antiviolence organizations while sustaining friction amongst “African American, Arab American, and Muslim civil rights groups over the ADL’s accusations of anti-Semitism and ongoing debates about Zionism and Israeli state policy.”<sup>65</sup> In other words, gay and lesbian national organizations like National Gay and Lesbian Task Force (NGLTF) not only co-signed ADL models of legislative policy recommendations that emphasized hate crimes as extended to locations of built environment (e.g.; community centers, buildings, institutions), but additionally the spaces adjacent to the areas of these places— thus a coupling between religion and sexuality as social groups and identities based in place and neighborhoods.<sup>66</sup> Further, Organizations such as the ADL share a longstanding history of having a seat at the table in formulating hate-crime policy in Los Angeles and California and nationally. An international Jewish non-governmental organization (NGO) that was originally formed to oppose anti-Semitism, the ADL now attributes its work to “information, legislation and advocacy.” The ADL’s partnership in shaping the development of hate-crime policy far

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<sup>63</sup> Jenness and Grattett, 140.

<sup>64</sup> Ibid.

<sup>65</sup> Hanhardt, 157.

<sup>66</sup> Ibid, 176.

outshined the participation of other organizations, even as anti-black racist violence was consistently reported as the most reported.<sup>67</sup> In its collaboration with the California attorney general's office, the ADL appeared as the only community-specific organization that was brought in as an overseeing "community partner."

The ADL's "collaborative relationship" with law enforcement was not new. In 1968, "FBI Director J Edgar Hoover ordered all FBI field offices to establish liaisons with ADL regional offices, an order repeated by the FBI HQ in 1985."<sup>68</sup> This top-down instruction led to the 1993 raid of ADL office in Los Angeles, where the ADL was storing records of over 950 political organizations they considered to be against their pro-Israel nation-state agenda. In the eyes of the ADL at the time, simply being pro-Arab was cause for alarm.<sup>69</sup> Even in its evolution toward a liberal "center," law enforcement continued throughout the cooperative development of hate-crime policy, performing a mode of community relation-building with law enforcement. The ADL became the default overseeing community body and input to offer corrective measures of hate crimes reporting and policy.

What then were the intentions and the roles of particular community partners over others? The question is not how the LAPD might have better improved relations among diverse community voices through measures of inclusivity, but how the entire system,

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<sup>67</sup> See Anti-Defamation League, accessed December 12, 2016, <https://www.adl.org>.

<sup>68</sup> "The FBI and the Anti-Defamation League," The Israel Lobby Archive, accessed December 11, 2016, <http://www.israellobby.org/ADL/default.asp>.

<sup>69</sup> Richard C. Paddock, "Evidence of ADL Spy Operation Seized by Police," Los Angeles Times, April 9, 1993, accessed May 22, 2017, [http://articles.latimes.com/1993-04-09/news/mn-20991\\_1\\_san-francisco-police](http://articles.latimes.com/1993-04-09/news/mn-20991_1_san-francisco-police).



including its various reform efforts that might have been narrativized as progress over time, was based on political imperatives dictating and influencing law-enforcement agency practices and priorities. Even if unable to trace the political sway that the ADL had on the LAPD, it is clear that community partnerships—and a place at the table—were often determined based on pro-carceral leanings. In other words, although in the eyes of the community organizations the table itself was a model of “community relations,” refusal to participate in the process according to the dictates of those in power often meant imposition of the oppressive tactics of silencing and violent exclusion. Law enforcement, policy makers, and activists enacted a particular chasmic storm that prefigured the litmus and reach of community partnerships or community partners with local law enforcement. This construction of what was termed community partnerships became co-constituting to a transition to a more explicit “community policing,” particularly through selective models of partnering through organizations like the ADL.

The fact is that criminal-justice reform focuses on the behavioral and procedural modification of officers and cannot question the root disciplinary and punitive episteme (coming to know, thinking, knowing, doing) of law enforcement, nor by extension, the “necessity” of their presence and the expansion and need for reform over time. Hate-crime reports, as well as the reform of their appearance and construction, therefore recuse law enforcement, poverty, and state negligence from being seen as perpetrators themselves. Moreover, these reports assist in a continuation of logics of victims versus perpetrators. These dangerously imbedded logics of democratic justice via punishment elide the state’s complicity, through training and policing, of profiling, harassing, and

violating those at the intersections of state oppression, especially—and most damning—those who are criminalized for survival work, mental health, people of color with disabilities, and trans femmes of color.

Although the three decades from 1984 to 2014 saw many reforms in crime data gathering and processing, particularly data on hate crimes, it was nevertheless a period of unapologetic expansion of crime statistics via a model of state-monitored ‘antiviolence.’ Somehow, too, the expansive stockpiling and refinement of crime-data collection as a mode of crime control has championed itself as a self-modernizing technology made more possible through perpetual progressive “improvements” via cultivating more culturally-sensitive categorization and intake policies. In 1977, Michele Foucault described the arcane and dated history of crime statistics:

You could also analyze the security technique of criminal statistics. Crime statistics do not date from the present, but neither are they very old. In France, crime statistics were made possible by the famous Accounts of the Minister of Justice from 1826....A technology of security, for example, will be set up, taking up again and sometimes even multiplying juridical and disciplinary elements and redeploying them within its specific tactic.<sup>70</sup>

That is to say, crime statistics only increase the need to expand the prowess of juridical and punitive carceral institutions, both in their very foundational presence and their self-aggrandized necessity. How then do we understand the very nature of the job of police officers to “enforce law” as a technology of securitization of the state? When the liberal

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<sup>70</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France 1977-1978*, ed. Michel Senellart et al., trans. Graham Burchell (New York, NY: Picador Press, 2009).

drive follows an uninterrupted arch toward the improved function of law enforcement—albeit away from corporeal punishment—to a more recognitory politics that emboldens law enforcement to specialize in distinguishing and examining what is and is not bias-motivated violence, what then is possible through such efforts? The interpretation of the law by law enforcement has been widely documented as being driven by the de facto cultural norms of their agencies, a history of institutionalized white supremacy where anti-black racism, ableism, sexism, heteropatriarchy, xenophobia, and criminalization of poverty via lethal force have been naturalized as inherently part of “the line of duty.”

### **Racial Ethnic and Religious Crimes (RERC) Project Report (1986)**

The 1986 executive summary that came from Watson’s SB 2080, “Racial, Ethnic and Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data,” begins with an opening statement from then Attorney General John K. Van de Kamp and Chief Deputy Attorney Nelson Kempsey:

The report outlines the preliminary steps needed to establish a statewide information center to receive and evaluate information relating to crimes motivated, all or in part, by race, ethnicity, religion, and sexual orientation (RERC). Included in the report are: A summary of the pilot project methodology. A summary of issues pertaining to RERC data collection. The recommendations mandated by the legislation. Program model.<sup>71</sup>

Although not clearly denoted in the report’s title, in 1986, Los Angeles County began mandating data on crimes beyond “race, ethnicity and religion.” Following the Civil

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<sup>71</sup> The report begins: “Pursuant to the requirements of Chapter 1482 of the 1984 Statutes (Senate Bill 2080, Watson), the Department of Justice submits this report, “Racial, Ethnic, and Religious Crimes Project: Preliminary Steps to Establish Statewide Collection of Data.”

Rights Act of 1968, which ushered in the first federal legal protections of bias against “race, color, religion or national origin,” the dawn of anti-hate activism that followed in the late 1980s, led by a majority gay white cisgender men, presented a singular identity-based logic of exceptional “sexuality” bias as an additional identity class that needed protection.<sup>72</sup> This 1986 report signifies a historical benchmark in which the programmatic distinction of “motivated by bias toward sexual orientation” is required for documentation. This report further outlines the means by which such a project would begin to attain such crime data and the methodologies by which collection would happen. The purpose of the report was to fulfill requirements as mandated by SB 2080 and to structure such a pilot program. The RERC report is the first of its kind and becomes significant to other state and county models of collecting crime data on bias violence.

The report acknowledges contributions from local California police and sheriff’s departments (specifically Compton, Oakland, San Francisco, Riverside, Inglewood, San Jose, Sacramento, and Fresno County Sheriffs), and from Baltimore County, MD, the only county department outside California to be noted.<sup>73</sup> Outside of law enforcement,

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<sup>72</sup> Culminating decades later in the federal Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act (2009), this logic of sexual exceptionalism enforces a calculus of either/or (Shepard’s sexuality or Byrd’s race) that arbitrarily cleaves intersecting identities of race, gender, sexuality, ability and class. For instance, while under California and Los Angeles hate crimes legislation, violence against “homeless” is not considered a legally “protected class.”

<sup>73</sup> “There is no magic bullet, but this is about the closest thing to it,” said Col. Leonard J. Supenski, a ballistics expert and chief of technical services for the Baltimore County Police Department. “It has the stopping power that police officers need and it is less likely to ricochet or go through the bad guy. As it expands it dumps all of the kinetic energy of the bullet into the target.” See Ronald Smothers, “A Tax Debate Focuses on Destruction Science,” *The New York Times*, November 7, 1993, accessed May 22, 2017, <http://www.nytimes.com/1993/11/07/us/a-tax-debate-focuses-on-destruction-science.html>.

contributions were also made by Trish Donahue and Fred Persily of the Human Rights Resource Center, located in San Rafeal, CA.<sup>74</sup>

The report notes:

Agencies consulted included the Uniform Crime Reporting component of the Federal Bureau of Investigation (FBI), the National Organization of Black Law Enforcement Executives (NOBLE), the Boston Police Department, the Human Rights Resource Center (Marin County), and the State of Maryland. Consultation with the FBI concerned legislation (H.R. 2455) which has been introduced in Congress “to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.” As mentioned earlier, Maryland has the most extensive experience with the collection of racial, ethnic, and religious crime data.<sup>75</sup>

The Human Rights Resource Center is lauded as:

providing information about cultural and ethnic diversity that police and fire agencies need in order to void cultural misunderstandings. The program develops communication and conflict resolution skills for officers that can help them avoid unnecessary conflict with citizens and complaints about their actions...[and] also provides effective policies and techniques to foster community relations and enhance communication skills and safety in working with diverse groups within the community.”<sup>76</sup>

In the project design of the executive summary, CADOJ program staff describe that these

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<sup>74</sup> “Compton Police Department, especially Beatrice Riley-Oliver., Fresno County Sheriff’s Department, especially Sergeant Allen Gaad., Inglewood Police Department, especially Arvella Umphenour. Oakland Police Department, especially Sergeant David Krauss, Riverside Police Department, especially Detective Jerry Knoffloch. Sacramento County Sheriff’s Department, especially Detective Michael Tsuchida. Sacramento Police Department, especially Lieutenant Joe Enloe. San Jose Police Department, especially Sergeant Richard White and Sergeant Daniel Ortega. Forrest Fulton, Dennis Meixner, and Sam Craig of the San Francisco Police Department. Major Leonard J. Supenski of the Baltimore County Police Department. Trish Donahue and Fred Persily of the Human Rights Resource Center. While many of these individuals were instrumental throughout the project, the recommendations contained herein are those of the Department of Justice.”

<sup>75</sup> RERC Project Report, 4.

<sup>76</sup> “Report of the Joint Fire/Police Task force on Civil Unrest: Recommendations for Organization and Operations During Civil Disturbance” (Federal Emergency Management Agency, United States Fire Administration, 1994), 63-64.

organizations, all but one of which were law enforcement and CADOJ agencies, as consulted with California law-enforcement agencies, as well as with other local, state, and national agencies with RERC data experience and/or expertise in developing “definitions and guidelines for identifying RERC for use in the pilot project; developed a data collection vehicle and procedures; and obtained agreement from eight law enforcement agencies to participate in the pilot project.”<sup>77</sup> The report restates that

Crimes motivated all or in part by race, ethnicity, religion, and sexual orientation occur throughout California. To counteract such crimes, law enforcement agencies and communities need accurate data. No state agency, however, currently collects data on such crimes.

In 1984–1986, no state agency had created data on such crimes, which at that time, were not called hate crimes but “crimes motivated by...” RERC offered recommendations as to 1) which “appropriate state agency,” 2) appropriate means to implement collection of “data on racial, ethnic, and religious crimes,” 3) and “development of uniform definitions and guidelines for consistent identification of racial, ethnic, and religious crimes.” The RERC report notes that “at the direction of the Attorney General, crimes motivated all or in part by sexual orientation were included in the program model.”<sup>78</sup> More simply the emphasis remains on the technologizing and mapping of criminal bias-motivated human behavior through, 1) project design, 2) data collection and 3) analysis and documentation of findings. In describing the data collection, the executive summary notes the following:

A training package was developed which included the RERC definitions

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<sup>77</sup> RERC Project Report, Executive Summary, i.

<sup>78</sup> Ibid.

and guidelines. DOJ program staff trained key personnel in the identification and reporting of RERC at each participating agency, prior to the commencement of the four-month data collection period, June 1 - September 30, 1985. Errors were resolved during the data collection phase. Of the 118 RERC cases submitted, 39 cases were rejected after further examination by DOJ program staff, because RERC motivation was questionable. A total of 79 cases were accepted as RERC-motivated crimes.<sup>79</sup>

RERC states that the process of developing this data is to ensure more accurate and precise data—more evidence of abstracted crimes being particularized into numerical statistics. In defense of a project proposed by RERC, the report further states:

A federal commission found that the absence of complete and accurate data concerning crimes and incidents motivated all or in part by race, ethnicity, and religion can hinder efforts by law enforcement agencies and communities to respond to such crimes.<sup>80</sup>

The absence of such data hinders efforts by law enforcement in being able to advocate and prove a need for more resources to address these issues of tackling bias-motivated crimes through channels of law enforcement. The choice of naming “community” here is largely a descriptor of efforts by community in relationship and partnership to law enforcement. There is undoubtedly a hierarchy of power and priority as to who controls how such resources would be used to combat bias-motivated crime. “Community” here, as in most criminal-justice-based knowledge production, is a shorthand for communities that have been relegated to positions in which they can be controlled and their involvement predetermined. The data that were being sought through SB 2080 were thus

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<sup>79</sup> Ibid, i-ii.

<sup>80</sup> Ibid., Section I, Introduction, 1.

mandated not to develop numerical evidence by which to visualize issues of bias-motivated violence (how, when, where, what), but to create a “comprehensive mechanisms for [bias-motivated] incidents monitoring.”<sup>81</sup>

Following collaborations among DOJ agencies and select law-enforcement and participating NGOs, RERC, like many of the anti-civil-unrest and riot-control studies and reports that followed uprisings from the late-1980s nationally (including Baltimore, Washington, D.C., and Virginia Beach) up until the “breaking point” of the Los Angeles uprising of 1992. The political climate of distrust of law enforcement by Black communities would further shape a model of community-oriented community control, euphemistically rebranded as “community invested,” “community collaborating,” “community partnerships,” and most notably, “community policing.” Following the Watts Rebellion of 1965, the LAPD, and many police departments in and surrounding Los Angeles, understood the advantage of law enforcement as setting a lowered yet tolerable bar for “serving and protecting”, pinpointing then community insiders and collaborators willing to tow the line of law and enforcement. Such modes of reform were considered a progressive move to strategically curtail backlash from the very failures, negligence, and outright violences and abuses from various arms of the DOJ—minimal to no sentences in high-profile cases of law enforcement abuse (Rodney King), outright

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<sup>81</sup>Ibid. The report further notes: In the 1984 The California Fair Employment and Housing Commission “Public Hearing on Racial and Ethnic Discrimination and Violence in North San Diego County,” similarly demanded recommendations of the U.S. Commission on Civil Rights:” ••• federal and state authorities should develop workable reporting systems that will produce an accurate and comprehensive measurement of the extent of criminal activity that is clearly based on racial and/or religious motivations. Uniform definitions, guidelines, and procedures must be developed if the data are to be reliable, comparable, and useful.”



harassment and profiling on individual and large scales from law enforcement (Virginia Beach; Washington, D.C.; Chicago), . Similarly, the “Los Angeles County Commission on Human Relations: A 25 Year History (1944-1969),” published soon after the Watts Rebellion, speculated the growth of gang-oriented Black and brown youth (or what it termed “growth and expansion of the ghetto and the barrio”) stating:

The aftermath of the riot in 1965 created in 1966 an atmosphere in the county in which people were alienated from one another. The problems facing the Commission grew out of incipient racial tension that was felt to be developing between Mexican-American and Negro communities. In addition, the majority community felt estranged by the slogan “Black Power.” The confusion in understanding what the slogan meant caused many citizens once concerned with ameliorating human relations problems to draw back at a critical moment when social concerns and involvements were sorely needed if racial accord and understanding were to prevail in the county.<sup>82</sup>

The dual purpose of controlling both the racialized bodies and the narrative of inter-ethnic racial tension, particularly between non-white minority groups, established the necessary avenues by which minority and bias-targeted violence could be further moderated, garnering support through data collection and establishing the necessity of law enforcement as the first responders to attend to, decipher, weigh, document, and process such crime.

### *Sexual Inclusion in RERC*

In section 1.3, “Inclusion of Crimes Motivated by Sexual Orientation,” RERC notes that although the program model title itself (religious, ethnic, race) was initiated

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<sup>82</sup> “Los Angeles County Commission on Human Relations: A 25-Year History,” 6.

without mention of sexual inclusion, California Attorney General John Van de Kamp, former Los Angeles County District Attorney (1975–1981), directed the DOJ staff who were overseeing the program to also gather data on any bias-motivated crimes that were “motivated all or in part by sexual orientation.” The report states,

Crimes against the gay/lesbian community may continue as the struggle for recognition and equality continues. The California Supreme Court stated in *Gay Law Student Association v. Pacific Telephone and Telegraph Company*, supra, 24 col. 3d: “A principle barrier to homosexual equality is the common feeling that homosexuality is an affliction which the homosexual worker must conceal from his employer and his fellow workers. Consequently, one important aspect of the struggle for equal rights is to induce homosexual individuals to “come out of the closet,” acknowledge their sexual preference, and to associate with others in working for equal rights.<sup>83</sup>

In this moment of the burgeoning gay- and lesbian-rights movement from radical gay- and queer-liberation movements a decade prior, the movement of minoritized sexual orientation from shame to pride, “out of the closet and into the streets” often became re-narrativized and restricted to discourses of homosexual equality, rights, and same-sex protections. The right of sexual inclusion in this instance, like most rights-based discourses, was the right to be similarly protectable under criminal-justice and law-enforcement-based solutions that sought to gather, define, and produce evidence on “criminal activity” targeting particular communities experiencing categorical bias.

Agencies representing eight precincts participated in the RERC program: the Compton Police Department, Fresno County Sheriff’s Department, Inglewood Police Department, Oakland Police Department, Riverside Police Department, Sacramento

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<sup>83</sup> RERC Project Report, 2.

County Sheriff's Department, Sacramento Police Department, and the San Jose Police Department. The San Jose, Fresno, and Oakland Police departments, had previously worked with the DOJ on a similar pilot project. Of the other five departments, the Compton, Inglewood, and Riverside Police Departments, representing the Los Angeles, greater Los Angeles, and Inland Empire area of Southern California, were specifically and primarily selected based on the "size of the agency" and "minority representation in the community."<sup>84</sup> RERC reports that the constituencies served by these eight agencies represented ten percent of the entire population of California. Key personnel henceforth were trained to act as liaisons and to implement RERC programming of reporting and identifying data to be reported to RERC.

Cases were submitted and reviewed, and within a six month period in 1985, from June 1 to October 1, a total of seventy-nine cases were accepted as "RERC-motivated crimes." This is notable for two reasons. First, the use of the term "RERC-motivated" versus bias- or hate-motivated crime was in vogue at that time. Second, of the 118 cases submitted, over a third of the submitted RERC reports were considered inadmissible due to lack of supporting evidence. RERC reports that further "training" would be necessary in order to avoid inordinate amounts of unacceptable misreported cases.

For RERC, and for most inter-departmental initiatives, programs, and statewide policing strategies, training focused on uniformity in gathering data and intelligence as key to assuring the "objectivity" and "true" value of the program. Training, in other words, is code for developing a formulaic mode to assure similarity in outcome and

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<sup>84</sup> Ibid., 5.

evidence. Such training toward uniformity challenges the interplay of “discretion” in foundational law enforcement training. Discretion has largely become the safety net by which law enforcement can rationalize its behavior in whichever way it deems necessary. For instance, an agency is noted as misreporting rape cases, presumably heterosexual violence of a cisgender man against a cisgender woman, as not falling under the criterion of “sexual orientation.” Although rape is clearly an act of sexual violence, and most definitely an act against a cisgender woman’s sexual agency, the assumption is that “sexual orientation” in terms of RERC cases, or even what is now termed bias- or hate-motivated crimes, is not directed toward a sexually minoritized subject.

Is the logic that women (whether cisgender, transgender, or gender-nonconforming subjects) or victims of rape are not a minoritized population enough to be siphoned as a protectable population under RERC? Or is it that rape somehow cannot exist in cases where there are too-legible “sexual minority” subjects? Either way, it is clear that the issue of distinguishing sexual violence of rape from violence of race, ethnicity, or religious violence is not only false but also limits the purview of what is considered a hate crime versus a crime against women, what we see eminently in the political debate between the division of Violence Against Women’s Act (VAWA 1994) and federal legislation on hate crimes that does not include gendered violence.

Such debates model the problematizing, eliding, and limiting impacts of narrowing discourses of inclusion into the spectrum of colonial law. Inclusion into the state-based criminal-justice system might offer life-extending protections for some, but it foundationally requires that there be others who simply cannot benefit from the same

privileges. Moreover, like RERC's inclusion of sexuality as an addendum, and its very particular suggestion of marginalized "sexuality," often, reform discourses concerning improvement of typology and categorical differentiation of social data will inevitably debate the merits of what is and is not categorically correct, or what RERC outlines as the goals of any crime data collection system: accuracy, uniformity, consistency, and thoroughness. Accuracy in crime data is maintained as the absolute means by which comparable and efficient corrective actions can be employed, when "correct" is to provide a "clear picture can be painted" of the nature of the crime to be recorded.

RERC states that "this capability [producing crime data] should help to dispel the common misconception that crime is solely a law enforcement problem and more appropriately depict it as a community problem." This statement, although smacking of a community-centered approach to addressing crime, is nothing short of a rhetorical posturing of eliciting community support and participation in contributing to "painting this picture." Much reported data for hate crimes, particularly from more marginalized communities that have developed a distrust for law enforcement based on experiences of bias or hostility, will eventually come from community-based and identity-based organizations that service communities who experience bias-motivated violence.

As a pilot program, RERC described some common issues in developing a uniform model of crime reporting. These issues inherent in data collection are described as deriving from limitations, training, and analysis. In the case of limitations, law enforcement agents in 1985 were the primary officials who conducted intakes of the reported RERC, and who were charged with determining the "motivation" for the crime

and thus its category. In cases prior to RERC or the bias-motivated crime legislation of the 1990s, motivation as connected to bias was simply not a required identification of crime reporting. RERC states:

Determining the motivation of a crime is difficult even when the suspect is known or apprehended; it is much more difficult when the suspect is unknown. Based on consultations with participating agencies and an analysis of RERC reports submitted during the pilot project, law enforcement officers typically have little information on which to conclude the motivation for an RERC. Officers are called upon to make a subjective guess at the motivation, using whatever information the victim or crime scene can provide. Even an experienced crime analyst may not be able to clarify the motivation in all cases.<sup>85</sup>

Skeptical of the quality of RERC data, one officer among the RERC pilot project personnel states that “enforcement time is lost gathering data that is misleading at best or inaccurate at worst and will not be understood in any case. The data will not help the police department but will probably be used against it.”<sup>86</sup> From this point of view, RERC data not only fails to be seen as accurate but also detracts from the time in which police officers could be enforcing law.

RERC concluded that state resources would have to be allocated to both law-enforcement personnel and to additional training to deliver “accuracy” of data. On the side of seeking to improve RERC, the report states the need for public participation and cooperation, acknowledging the risks involved when communities fear reporting to law enforcement, particularly the fear of “reprisal” and “deportation,” as was cited in the 1985 report of the National Organization of Black Law Enforcement Executives

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<sup>85</sup> Ibid., 9

<sup>86</sup> Ibid., 10

(NOBLE), “Racial and Religious Violence: A Law Enforcement Guidebook.” In the end, even in noting the risks associated with reporting RERC for undocumented populations, the RERC report simply recommends that cooperation is necessary to make data more accurate. All in all, for the sake of “data accuracy,” and not necessarily for safety or selfhood, the suggestion is to simply put aside one’s fear of law enforcement, a very sobering and improbable solution.

This question of police-community trust highlights another quandary reported by RERC: if a victim of bias-motivated violence injures the perpetrator and the injured perpetrator claims to have been the victim of bias-motivated language and threatening actions, the self-defending individual can be accused of bias-motivated violence. What RERC implies but fails to note explicitly is that those who are most comfortable reporting to law enforcement are likely those who trust that law enforcement will favor and trust their word, those who will be viewed as less “criminal.” How then could RERC reporting support those about whom criminality or nonconformity has historically been presumed?

The RERC report positions accuracy of data as best tackled through proper law-enforcement personnel training, particularly from the top down. It describes that since line officers follow orders as rank and file reporting through the chain of command, buy-in and implementation must begin with “law enforcement executives.” Given that most of the critique of RERC reporting from officers is based on the waste of law-enforcement power, which is whittled away in paper pushing, the RERC report reminds officers that accuracy in RERC data would allow for more preventative policing in which monitoring of community-based bigotry and “potentially explosive situations” could be prevented.

The RERC report recommends more training in “community competency” in order to understand the issues plaguing communities who experience bias-motivated violence.

The RERC report acknowledges that, even in providing data of the upmost accuracy, RERC data offers only a snapshot of bigotry and prejudice, mostly when accounting for more structural and systemic discriminatory issues. As the report notes, “For example, data about RER [racial, ethnic and religious] discrimination in housing, employment, and education must come from other sources. Community attitudes and most non-criminal RER incidents would not be measured. RERC data would not even capture all instances of crime.”<sup>87</sup> Although still typifying bias-motivated violence under the rubric of crime, the report significantly acknowledges the ways in which “RER” (racial, ethnic, religion, and a latent and insinuated ‘sexuality’) discrimination exists through many other coordinates of individual, institutional, and other forms of unaccountable bias. In addition, the RERC report notes the inaccuracy inherent in the translation of all crimes into numbers, as this neutralizes the unique intensity and impact of each incident. As an example, it notes that “ten misdemeanors may be less serious than one felony. The level of offenses may be more of an indicator of community attitudes than the total number of offenses.”<sup>88</sup> Based on this logic, the level of offense is necessary to paint a more precise picture of the actual harm done. However, the question still remains: How exactly does this data, even as dynamic numerical evidence, serve to protect the communities who are harmed and create more safety for them?

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<sup>87</sup> Ibid., 12.

<sup>88</sup> Ibid.,13.



The RERC report describes inconsistencies in reporting from different participating law enforcement agencies, ranging from one report from one agency to over forty from another. The report states that it is the lack of trust and participation from community with underreporting agencies, and suggests that in order to have accurate reporting, there must be improved “rapport with community.”

The RERC report, as per mandate of SB 2080, is in essence a call to have the program model continue and be incubated, funded, and implemented as the unifying single state entity and agency, as recommended by the Department of Justice. The program model piloted the mechanisms by which agencies would be trained to document and communicate via individual RERC reports to the DOJ. Uniform definitions and guidelines would be determined in order to produce regularity for means of predictability of crime prevention. A fourth recommendation of the RERC report assessment advocated for more state funding to improve and expand law-enforcement training and data-collection efforts. The RERC report repeatedly describes the lack of alternatives to the RERC program’s being housed within the DOJ as the only statewide body that is “legislatively mandated” to report on crimes against persons and properties. The alternative that was considered was the Department of Fair Employment and Housing (DFEH), which was established in 1959 and became an independent department in 1980 at the same time that Governor Edmund G. Brown Jr. created the Governor’s Task Force on Civil Rights. The RERC report states that as early as 1980, this task force had been conducting hearings and investigating allegations of racial, ethnic, and religious violence

in California.”<sup>89</sup> The DFEH also gathered evidence of discrimination in employment, housing, services, and accommodations, although not about crimes against persons and properties.

In other words, in this very moment of agency self-emboldening “commonsense self-making,” the priority of RERC data and the DOJ was to distinguish between “crimes” or criminal laws against racial, ethnic, religious, and sexuality of persons as one of interpersonal (victim-perpetrator) violent harm, and structural, institutional, or civil-law-based discrimination. The considered alternative of DFEH as a participant agency for collecting RERC was dismissed since DFEH did not oversee what was considered the field of “crimes” rather civil law. Eventually DFEH, too, is a department in which one can report and pursue remedy for bias-motivated discrimination, even if doubly considered “criminal.” Like most state-based agencies, a degree of cooperation was inevitable. However, the DFEH drew differentiations from the work of observing and tracking “criminal activity” of the DOJ and instead focused on compensation and advocacy for victim-based resources. The DOJ then, on the other hand, is seen as narrowing its focus on prosecution and retribution.

It is worth pointing out here that the banal ways in which the construction of the field of crime, criminality, and criminalization of RERC—what we now know as hate crimes—is in moments like this of the RERC report of 1986, distinguished from legislation on civil discrimination and compensation and support for victims. Criminality here is distinguished by a nature of violence, threat, or harm by way of “bigotry,”

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<sup>89</sup> Ibid., 1.

“prejudice,” or eventually, “hate.”

In 1986, RERC considered the FBI-based Uniform Crime Reporting (UCR) as the ultimate national program for the collection of data on arrest and crime in a summary system. In reference to the future proposed federal bill of the “Hate Crimes Statistics Act,” the RERC report states that “the FBI has been exploring the possibility of changing UCR from a summary data system to an incident-based reporting (IBR) system, where each incident would be reported with sufficient detail for federal and state crime statistics.”<sup>90</sup> At the time, the FBI’s UCR collection methods had remained largely unchanged since its advent six decades previously, much as had the data collected by the law enforcement administration generally since the 1930s. The main differences between summary crime reporting systems and National Incident-Based Reporting System (NIBRS) is the number of crimes that are iterated, a respective ratio of eight to forty-six crimes. That is, the IBR systems seek to iterate specificities that otherwise are consolidated if not fully erased from reporting in summary reports. For instance, summary crime reporting only allowed sexual violence of rape as reportable only by cisgender women, and with the assumed logic, the perpetrator was likely a heterosexual cisgender man. This means sexual violence of rape simply was not recorded within these veritable objective-seeming databases. Secondly, in IBR systems of reporting, multiple offenses (which is the logical and legal underpinning of modern “hate crime” in the United States) in the same report simply were not possible. That is to say, the system worked on what is called a “hierarchy rule” by which crimes were reported based on the

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<sup>90</sup> Ibid., 16.

highest level of the offense, that is, the level that would require most severe legal penalty. Thus, bias-motivated violence as it is reported today through an IBR system simply could not have been reported then to the crime data collection system reformations of the mid to late 1980s, which as culminated in the 1990 Hate Crimes Statistics Act.<sup>91</sup>

With over 650 law enforcement agencies throughout California participating in RERC, funding for the RERC data collection varied by location and undoubtedly raised concerns about budgets to ensure RERC collection program implementation. The most significant cost would be in training and in updating manuals, procedures, and forms and overhauling and/or adjusting current data-collection programs. The report states, and as mandated by revenue and taxation codes, new program costs of implementation would be absorbed by taxpayers dollars, or “state costs,” slated as initial annual costs of approximately a \$250,000.

Since the RERC program demanded that law enforcement agencies report to the DOJ, specific data elements and pre-defined coding would be required for collection, compilation, and analysis. Each section then highlighted essential identification, victim information, suspect information (if known), and the crime itself, both basic and type of crime specified. For “basic record identification,” it required the reporting agency, the case number, and the report date. Further, a coding sheet was to be used to identify victim information, including “number of victims, victim number, date of birth, sex, race, ethnicity, national origin: distinguished by traits including *linguistics, ancestry,*

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<sup>91</sup> Ibid. The 1986 report reads, “A bill is currently in Congress entitled “Hate Crime Statistics Act” for federal collection of data about crimes motivated by racial, religious, or ethnic hatred. If this bill is enacted, the FBI may want to collect RERC data as an element of the IBR system.”

*traditions, attire, religion, sexual orientation, organization membership or affiliation relationship to suspect(s).*”<sup>92</sup> The coding sheet demanded the same criteria for the “suspect information.” Documentation of the crime listed included the “date, day of week, time, location, weapon” and additionally the motivating factor: race, ethnicity, religion, or sexual orientation. Further, the type of crime is statute(s), status (actual, attempted, unfounded), description of crime (e.g., cross-burning, painted swastika), personal injury, and property damage.

As these reports would be submitted by agency law enforcement officers from various municipalities throughout California, the DOJ was then to be tasked to decipher, correct, adjust, and modify any reported errors, and to cross check information with crimes reported in printed news media through submitted newspaper clippings. In the end, all reports would be compiled and coded and placed in a centralized database and physical filing system and storage. The RERC program would then publish an annual report that would be available to the public.

### **The Attorney General’s Commission on Racial, Ethnic, Religious and Minority Violence (1986)**

In a cover letter to John K. Van de Kamp, attorney general of California, William J Barry, chairman of the 1986 Attorney General’s Commission on Racial, Ethnic, Religious and Minority Violence writes:

White there appear to be some laws on the books dealing with hate crimes,

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<sup>92</sup> Ibid., 18.

there is neither widespread knowledge of these laws nor of other resources and remedies available to victims. We are delighted that the Department has updated the 1964 handbook on civil rights laws and remedies which will assist community agencies and the public knowing what avenues they can pursue for assistance.<sup>93</sup>

The letter further details the increase in reports of violence to new refugee groups, the growing problem of anti-minority hate crimes, and recommendations to vigorously seek prevention of continued hate crimes. This commission comprised interfaith and inter-ethnic leaders representing a range of organizations, such as the National Committee for Sexual Civil Liberties, American Jewish Committee, The Mexican American Legal Defense and Education Fund, Japanese American Citizens League, Inter-Tribal Council of California, National Conference of Black Churchmen, Chinese for Affirmative Action, the National Association for the Advancement of Colored People, Los Angeles Urban League and state departments on aging/elders, disabilities, and civil rights.<sup>94</sup>

In 1984, Attorney General John K. Van de Kamp established the Commission on Racial Ethnic Religious and Minority Violence. This commission was formed to assess how to more accurately determine the extent and reach of bias-motivated violence, a charge similar to that of RERC. The commission's four mandates, more clearly geared toward building community relations, were as follows:

1. Obtain more accurate information to determine the nature and extent of racial, ethnic, religious, and minority violence
2. Develop guidelines for a standard definition of racial, ethnic, religious, and minority violence to allow for uniform identification and reporting of incidents of this nature

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<sup>93</sup> “Attorney General’s Commission on Racial, Ethnic, Religious and Minority Violence, Final Report” (Office of the Attorney General California, Los Angeles, CA, 1986), i-iii.

<sup>94</sup> Ibid., iii – iv.

3. Encourage implementation of measures designed to decrease the amount of racial, ethnic, religious, and minority violence in California
4. Act as liaison to adversely affected minority communities.<sup>95</sup>

The overall goal of the commission was to build community bonds to support the implementation of measures to prevent bias-motivated violence, which were named as those that were enforceable by law-enforcement as first responders. The report notes that public community forums were held in major cities across California, specifically in Sacramento, San Francisco, Oakland, Fresno, Los Angeles, Riverside, and San Diego. During these forums, members of the community testified to their shared experiences of witnessing or experiencing bias-motivated violence in order to depict not anecdotal aberrations, but rather “pervasiveness of violence motivated by prejudice in their communities.”<sup>96</sup> The commission was to consider these testimonies and review programming possibilities for victim restitution in the form of legal, social service, and legislative remedies. However, throughout its study, the commission continued to consult with designated representatives from the California Department of Education, the California Department of Corrections, the Fair Employment and Housing Commission, and the Department of Fair Employment and Housing.

The commission’s mandate is described repeatedly as being to create practical recommendations to curb hate crimes. Yet even though the commission notes the urgency of its work as a necessary interruption of hate violence, the report acknowledges that “these recommendations do not address the fundamental political, social, and economic

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<sup>95</sup> Ibid., 3.

<sup>96</sup> Ibid.

shortcomings in past and present national and international affairs that spawn bigotry.”<sup>97</sup> Herein lies an extremely important acknowledgement, that such recommended measures, however necessary, do not tackle the root issues underlying the forms and dynamics of bigotry. From this telling admission, the report continues on to signify the importance of having accurate data and information in order to “design and implement” anti-hate violence strategies.

The commission report clarifies the difference between hate violence and hate crime, terms whose use had been (and continue to be) conflated. Hate violence is described as denoting the violence itself, whereas hate crime denotes when such violence demands “criminal sanction” of the action. The commission describes them as follows:

The Attorney General’s Commission on Racial, Ethnic, Religious, and Minority Violence considers an act of hate violence to be any act of intimidation, harassment, physical force or threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by hostility to their real or perceived race, ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation, with the intention of causing fear or intimidation, or to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution or the laws of the United States or the State of California whether or not performed under color of law.<sup>98</sup>

This phrase “color of law” is used to describe the presence of the law or the appearance of legal power, even when in operative violation of the actual law itself. It is more or less a euphemism used by those practicing and even embodying the enforcement of law, even when in direct violation or negligence of it, to describe the difference between law itself

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<sup>97</sup> Ibid.

<sup>98</sup> Ibid., 4.



and disjuncture. This statement reinforces what it means to have the right to be protected from hate crimes and the capability to report them, extensions of core rights or privileges articulated by US constitutional law of citizenship—“whether or not performed under color of law.” This citizenship, whether of proper sexual, racial, ethnic, disability, or minoritarian subjecthood, is measured by the commission access to the same rights and privileges that are granted to citizens who otherwise do not face discriminatory practices, threats, or violence due to their appearing identity, whose model can be traced to the first established and imagined citizen of the United States, the colonial settler: a white, cisgender male, heterosexual, property-owning or aspiring, able-bodied Christian—simply put, a “human.”

The commission report further seeks to distinguish the motivating force of hate and bigotry (in terms of race, ethnicity, religion, and sexuality) from the motivating force of victimizing vulnerable persons (the elderly and the disabled). This distinction in the forms of bias-motivated violence allowed the commission to determine when the violence might “pose danger of escalating and disrupting entire communities” and would therefore necessitate the criminalization of those particular motives of hate. However, the commission acknowledges that such a distinction is not final, since disabled peoples are often named specifically as a group that ought to be “eliminated” by publications of known hate groups such as the Ku Klux Klan. The commission fails to note the possibility of dual or multiple motivating forces that provoke violence, and similarly, multiple intersecting identities that may be targeted based on a combination of perceived vulnerability and perceived unprotectability (law enforcement or community as not

pursuing criminalization/accountability, coupled with a sense of impunity).

For communities at the intersection of multiple identities that might or might not be clearly identifiable, substantiating hate violence by the logic of the apparent motive of hate is most damaging. Again, the issue of poverty as an axis around which vulnerability orients particular individuals in particularly vulnerable identity groups is never addressed. This leaves open a critical question: who does access to law enforcement provide a means to safety, and who does it put more in harm's way.

The California state commission report, the first of its kind, offered a list of ten findings and recommendations, much like the RERC report released in the same year. Together, these two reports offered a clear path to legislative, law enforcement, and community participation and programming on the level of state agencies, local nonprofit organizations, and direct social service and human-services agencies. Both the AG Commission and the RERC report, as finding number two of ten, call on the centralization of the system for collecting and reporting hate-crime data. Finding three reports the need for more legislation under the code of "civil rights" and with further "criminal penalties" as a means to deter "hate crimes." Finding four reports the need to establish contracts with human relations centers to specifically offer victim services and assistance, but specifically toward law enforcement agencies and schools. Finding five calls for hate violence victims to be given priority for access to "practical assistance and support services." Finding six describes a call for criminal justice policies as a means to prevent hate crimes. Finding seven describes the need for training for personnel, ranging from law enforcement to district attorneys, to recognize and enforce criminal laws

pursuant hate violence. Finding eight reports that “public awareness of hate violence, its causes and effect, legal remedies and available resources, must be increased.”<sup>99</sup> Finding nine reports preventative efforts needed specifically for tackling violence against disabled and elderly persons, particularly in the form of public policies and programming. Lastly, finding ten describes the need for task forces to monitor and provide recommendations for implementing findings and recommendations of the commission’s report.

*Social Science Liberalism:  
Recommending Improved Data Collection and Reporting*

The commission report, like the RERC report, boasts repeatedly of the need for the Department of Justice to collect and report information on hate crimes. The commission report also describes the supplementation of law-enforcement work in this arena through the use of “county human relations centers,” one of the first of which had been established in Los Angeles County. Human-relation centers would provide locations where reports could be made and would be participatory reporting centers to the California Department of Justice itself.

The report also links the California Penal Code Section 628-628.2, which already mandated that schools report any violence on campus, to further distinguish bigotry or bias-motivated violence from other violence. Further, the report recommends the proposal of a California Civil Rights Act, a comprehensive civil-rights statute with criminal penalties. Under the Ralph Civil Rights Act, the commission report describes

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<sup>99</sup> Ibid., 7.

other legal remedies that victims could be assisted in pursuing, such as legal representation, compensation fees, and restraining orders as “injunctive relief” for victims. Of the fourteen recommendations of the Ralph Civil Rights act, most of which describe giving more power to what the Ralph Act can ensure legally and monetarily for victims, point thirteen surprisingly describes the following: “13. The California Attorney General should explore Ralph Civil Rights Act proceedings against law enforcement agencies when a pattern and practice of violation occurs in an agency.”<sup>100</sup> This is a critical insight into even the modest reform efforts of that time, indicating that in 1986, this commission, which although comprising a coalition of representatives of nonprofit legal and advocacy organizations and run on behalf of the attorney general’s office, would still be insightful enough to name the very real possibility of corruption and civil-rights violations by law enforcement agencies themselves. The last recommendation, point fourteen, is a request to expand the California Penal Code Section 1170.75, in which race, religion, *or* ethnicity are factors in enhancing sentencing, but sexual orientation, disability, and age are not included. In other words, the recommendation promotes a more inclusive framing of other populations and identity groups targeted by bias-motivated violence, but again, the position as one of expanding rights in terms of legislating official enhanced sentencing when dealing with parties outside of the more traditional civil rights framework. The following section of the commission report outlines a proposal for a Hate Violence Prevention and Protection Act, much like the one eventually legislated federally in 2009 by Obama, the Matthew Shepard and James Byrd,

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<sup>100</sup> Ibid.,8.

Jr., Hate Crimes Prevention Act. The report outlines:

- a) work with community organizations to respond to and prevent hate crime;
- b) gather information about the incidence of hate violence and report it to the California Department of Justice;
- c) assist local schools in developing programs and curricula addressing human rights issues;
- d) develop responses to hate violence in cooperation with local law enforcement,
- e) develop programs to assist victims and witnesses of hate crimes in cooperation with district attorneys; and
- f) develop and implement conflict resolution programs.

Only one of the six of these bullet suggestions are entirely contingent on cooperation with and through penal state agencies, the last of which, conflict resolution programs would likely be operative through county agency in accordance with law enforcement or a department of justice. Although the first recommendation, working with community organizations, is suggestive of placing power into community responses, the point of entry—to “work with”—suggests that the relation of priority will likely always remain the department of justice and law enforcement’s relation to community organizations they deem to be properly cooperating and amenable to their dictated priorities.

The recommendations under “Victim Assistance” in the commission report locates programming under county human relations, again the involvement of the district attorney’s office and the California Office of Criminal Justice Planning. In the recommendations for “Criminal Justice Policy Formulation,” the commission report describes different avenues in which the state attorney general’s office can work in tandem with local law enforcement agencies, as well as developing more uniformity in terms of policing and reporting procedures and policies. Of the five points in the section,

and the twenty-third recommendation overall, it states, “The Attorney General should appoint a Task Force on American Indians and Justice to analyze law enforcement needs on reservations, the impact of Public Law 280, and other appropriate topics.”<sup>101</sup>

The next section of the report emphasizes the need for law enforcement training, specifically through creating more uniformity through procedures, policy, and training, or Peace Officers Standards and Training (POST). This section emphasizes training in “cultural difference” and the California Department of Justice further working with “minority community representatives and prosecutors” specifically toward training for law enforcement and pursuing prosecution of hate crimes.

The following set of recommendations in the section “Education and Awareness” describes the *Unlawful Discrimination: Your Rights and Remedies*, an annual publication that is suggested to be updated yearly and distributed to “community organizations, law enforcement agencies, schools, and other appropriate organizations.”<sup>102</sup> In the interest of informing and educating the public, it further suggests that brochures on hate crimes be made multilingual and that they offer victim rights, social services, and remedies to community groups, and other resources, such as religious organizations. Lastly in this section, point thirty describes that “the California Department of Education should develop a handbook to provide information on gay and lesbian lifestyles and counter myths and stereotypes about gays and lesbians for teachers and school administrators.”<sup>103</sup>

The last section of the recommendations in the commission report describes

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<sup>101</sup> Ibid., 9.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

“Violence Against the Elderly and Disabled.” The recommendations here describe the need for collection and dissemination of data specifically concerning violence among disabled or elderly persons. Point thirty-two describes the need for law enforcement agencies to develop units to be dispatched specifically for those with mental illness, as well as “escort services for elderly and disabled persons.”<sup>104</sup> This section largely reflects much of the other shared recommendations described earlier, but specific to the elderly and disabled. The report also recommends community organizations to “develop self-protection programs” on behalf of elders and disabled persons.

In this 1986 Attorney General Commission Report, Chapter One, titled “Hate Violence in California” reads:

Hate violence poses a serious threat to California communities. In every region of the state, incidents have occurred in which racial, ethnic, religious, and sexual minorities have been harassed, intimidated, assaulted and even murdered. In some communities, acts motivated by bigotry have sparked widespread community disruption. Although reliable data on the incidence and severity of hate violence is not available, testimony from community organizations who receive and track reports; from law enforcement officials; and from victims, documents that violence motivated by bigotry is widespread in California. In some communities reported hate violence appears to be increasing.<sup>105</sup>

By and large, the AG Commission Report, like most institutional interventions or reporting, is not simply aimed at public awareness; it is also designed to drum up support for the policy recommendations and programming initiatives they are setting forth. To put it more plainly, such a report is aimed at making necessary and indispensable the

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<sup>104</sup> Ibid.

<sup>105</sup> Ibid.,13.

reproduction and continued existence of the very state institutions and vetted community players that will collaborate on addressing the problem at hand. However, at its very base, the report is an argument for expansion of state and law enforcement programmatic efforts to track, document, aggregate, and report on hate violence, specifically in terms of hate violence that meets the legal burden of proof to be classified as a hate crime.

The logic already imbedded here is that if data becomes more reliable in categorizing and enumerating the evidence of hate violence as an epidemic issue, such efforts might support solutions that could decrease or prevent future hate violence, perhaps bringing together targeted communities of racial, ethnic, religious, and sexual minorities. The significance of placing the markers of race, ethnicity, religion and sexuality in succession is the ability of such a listed recitation to enshrine a neoliberal democratic ideology of different but equal, with state protections equally available to all. Unfortunately, based on the community testimonies that follow and that are used to exemplify the contemporary “outbreaks of hate violence,” one wonders how documentation and even law enforcement response to hate violence can begin to address systemic issues that stoke such harmful behavior, attitudes, actions in the first place.

From the latter part of 1984 to the end of 1985, various select minoritarian associations across California, as represented by their primarily executive leadership, testified to the Attorney General’s Commission on Racial, Ethnic, Religious, and Minority Violence. For instance, in what appears to be a series of hearings held in Southern California and then moving north, Clara Harris, executive director of the Heartland Human Relations Commission, offered testimony in San Diego on December



13, 1984. David Lehrer of the ADL's Western States Council, testified in Los Angeles on May 23, 1985. Otis Smith, the president of the Rialto-Fontana chapter of the NAACP, testified in Riverside on August 26, 1985. In San Francisco, Susan Brown, a legal counsel for the Mexican American Legal Defense and Educational Fund, Chieu Pham, the executive director of the Vietnamese Fishermen's Association of America, Diane Christiansen, the executive director of Communities United Against Violence, as well as Henry Der, executive director of Chinese for Affirmative Action, all offered testimony on October 7, 1985. Lastly, Muslimah Salahuddin, a civilian from Squaw Valley-Reedley area, gave a testimony before the Attorney General's Commission in Fresno on October 21, 1985.

Such a seemingly diverse coalition of leadership and organizations appears to offer a promising gathering of "racial, ethnic, and religious" alliances. However, the arbiter, container, and receptacle of these oral testimonies was California itself, particularly the production of state power through the implied coercion of locating solutions in the politically charged trend of minoritarian targeted violence, what now is seamlessly termed hate crimes, through the state-sponsored and facilitated alliance between law enforcement agencies and professional community-centered organizations.

The report earlier states:

In San Francisco, the Commission met with representatives of law enforcement agencies and professional organizations to explore the role of law enforcement in preventing and responding to crimes motivated by prejudice. The Commission formed committees on legislation, litigation, and community relations/public education to study proposals from the public and to review existing model programs in California and other states. The Commission's legislative committee held public hearings in Los Angeles and San Francisco to review and evaluate legal remedies

available to victims of hate violence.<sup>106</sup>

Later, the AG report illustrated a list of compelling events in which minoritarian-targeted violence is both vast and specific, in drawing from the community testimonies:

1. A black woman from a rural community reported that her children had been taunted, threatened, and assaulted on school buses so often that they were afraid to go to school.
2. A community organization representative relayed reports of threatening phone calls and cross burnings.
3. A legal advocate described systematic attacks on Hispanic farmworkers
4. A trade association representative expressed his concern at the lack of official response to violent attacks on Southeast Asian fishermen.
5. A human rights organization administrator detailed a vicious attack on a black man married to a white woman in a suburban area.
6. A service provider warned that AIDS hysteria is causing more violence against gay men.
7. A community organization representative noted an increase in desecrations and other attacks on synagogues.
8. A violence prevention program worker described police and private-citizen attacks on gays and lesbians in both urban and rural areas.
9. A community leader described the disturbing trend of anti-Asian violence.

Other victims and advocates testified about hate violence manifesting in forms ranging from insidious discrimination to life threatening assaults.

The list illustrates the multidimensional and expansive nature of hate violence, or hate toward criminalization. However, it is clear that the impact of bigoted behavior is diverse and dynamic, not a monolith characterized by only one feeling about or motivation for “hate.” What exactly does it mean to translate such harm into evidence via data? What are the important elisions and community-based or community-centered solutions that will simply be swept away in such extensive data-collection efforts?

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<sup>106</sup> Ibid., 3.

Further, the assumption here too is that such minoritized communities, including a mother, a community organizer, a legal advocate, a trade union rep, a human rights organization staff member, a service provider, a religious organization, a social worker, a community leader, and advocates and survivors themselves. The identities of those impacted ranged from rural Black families, Latinx farmworkers, Southeast Asian fishermen, interracial marriage by a black cisgender man, gay (presumably white cisgender) men, Jews, urban and rural gay and lesbians, and the Asian American community. The summation of the “Hate Violence Today” section of the AG report states, “Reports from communities across the state documented the pervasiveness of violence motivated by bigotry in California in 1985 and 1986. There are indications that anti-Asian violence and anti-gay violence are increasing.”<sup>107</sup> The assumption even here, in the snapshot of anti-Asian and anti-gay violence, is that, even without prior research, community-centered data, or even outreach prior to the early eighties, that the rise of such violences from one year to the next somehow establishes that there is an epidemic of crimes. Such a position of reported crimes and violences as a just indication assumes that previous to the state’s acknowledgement of the necessity to address and support efforts against bias-motivated crimes, violences simply were historically more acceptable in the past than they are now. The attorney general’s commission report notes:

Anti-minority violence is not new in California. Throughout the eighteenth and nineteenth centuries there were outbreaks of violence motivated by bigotry against all minority groups in the state. In the twentieth century, violence motivated by bigotry continues. The creation of the first Ku Klux Klan in California in the 1920’s, the attacks on Hispanics during the so-

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<sup>107</sup> Ibid.,13.

called “Zoot Suit Riots” in 1943, the internment and assaults on Japanese Americans during World War II, and the increase in anti-Black and anti-Semitic attacks in the 1950’s mark low points in California history.<sup>108</sup>

By naming a sordid history of targeted violence that is hardly mentioned to this day by state officials or official state record, the report cleverly notes the histories in which minoritarian targeted violence is not new, yet, even in such examples, elides and evades the responsibility of having participated, if not systematically targeted, such groups through its own mode of governmentality.

Similarly, the report also assumes that such a crisis is “new” because of the state’s determination that these violences be addressed in a legal forum. Lastly, the logic of either a “decrease” or “increase” assumes a fair and just reporting, with the reporting itself as the most pertinent information. In other words, simply because something decreases or increases each year does not necessarily correlate as being any more or less safe to those who have been harmed. Such a logic of risk management based on summary and annual numerical consolidation is simply a highly circulated and accepted approach to understanding harm, risk, and violence. However, it nulls the intention and purpose of naming and tackling such issues first hand. Not only had California, by its own rules and values, not yet established a unified mode of collecting such data, but the very fact of “underreporting” and the tensions of noncooperation between community and law enforcement was an issue being strategized through efforts to build trust and partnerships.

The attorney general’s report states that even the executive-leader witnesses

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<sup>108</sup> Ibid.,14.

before the commission cited “high levels of distrust, fear, and alienation in minority communities in California. Black, Hispanic, Asian, American, Indian, gay and lesbian, and disabled community representatives” and that specifically “discrimination and physical abuses by public officials, particularly police, that continue today. Those abuses are significant because they prevent minority persons from reporting crimes against them and seeking other government assistance.”<sup>109</sup> The tactic that was used to address underreporting was simply to ask for more reporting and more friendliness and competency from law enforcement to do so. However, even if reporting reached a peak of what the state itself would deem a high rate of reporting success, the result and product of such efficiency would be to continue to advocate for the expansion, education, and training of law enforcement as both first responders and investigators of such violences.

Citing fear and alienation as some of the root causes of minoritarian-based violence, the report interestingly notes:

Although accurate data is not available, testimony before the Commission gives credence to Governor Edmund G. Brown Jr.’s Task Force on Civil Rights’ dire prediction that hate violence would increase as economic conditions and social program funding decreased. Victims and advocates reported statements from hate crime perpetrators who use reasons such as protecting their jobs and tax dollars to justify their actions.<sup>110</sup>

Not only does the attorney general’s commission state, in accordance with then Governor Edmund G. Brown’s Civil Rights Task Force of 1980, its understanding of social and material conditions that provoke interpersonal violence due to fear or imposed economic

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<sup>109</sup> Ibid., 13.

<sup>110</sup> Ibid., 14.

instability, it also identifies and assesses predictions of more risks to come. The immediate investment is not in naming the “root causes” of capitalism or neoliberal racial capitalism, but rather the ability to name structures of inequity and social safety nets that had since addressed such issues and to the impact when such social safety nets had been eradicated or jeopardized. Yet the issue is quickly able to be reduced to an interpersonal issue of a provoked perpetrator and an inevitable victim.

The section in the attorney general’s commission report on the history of hate violence in California concludes by describing the problems with the increased visibility of new identity groups, such as Asian immigrants and lesbian and gay peoples:

The Commission has concluded that the incidence of hate violence in California can be reduced. A review of successful legislative, community, and law enforcement efforts in California and other states provides convincing evidence that Californians can work together to develop practical programs to end the cycle of hate violence.<sup>111</sup>

It states further:

Preventing hate violence is not and will not be any easy task. It will require commitment and resources from state and local governments, from community organizations, and from citizens. Reports from successful programs operating now convinced the Commission that California can adequately respond to and prevent hate violence.<sup>112</sup>

In 2015, Hilary Rodham Clinton was recorded backstage via handheld camera-phone having a candid conversation with Julius Jones, the leader of Black Lives Matter in Worcester, MA, and Daunasia Yancey, founder of Black Lives Matter in Boston. In

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<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

being asked direct and tactfully confrontational questions about what she planned to do to address what was happening with officer-related murders of black people in the United States, Rodham Clinton interrupts Jones by saying:

I don't believe you change hearts, you change laws, you change allocations of resources, you change the way systems operate. You're not going to change every heart, you're not. But at the end of the day, we can do a whole lot to change some hearts and change some systems to create more opportunities for people who deserve to have them. To live up to their own God given potential. To safely, without fear of violence, live in their own communities. To have a decent school, to have a decent house. To have a decent future. We can do it one of many ways. You can keep the movement going, which you have started, and through it you may actually change some hearts, but if that's all that happens, we will be back here in ten years having the same conversation.<sup>113</sup>

In assessing the evolution of hate-crime reform between 1996 and this heavily staged, “race-forward” interaction in 2015 with a Democratic party presidential candidate, the question remains: How effective are changing laws, allocations of resources, and the ways (modes) in which systems operate if in the end, the goal is to grow the power and capacity of a penal carceral system? Over this time, the many initiatives to reform and make more effective addressing hate/bias/prejudice-motivated violence have been null, and though the legislation and allocation of resources to address bias-motivated violence have changed dramatically, particularly in Los Angeles County and California, the question that must be asked is to whom have these resources been allocated? What does confronting and condemning hate mean in a system unconcerned

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<sup>113</sup> Dan Merica, “Black Lives Matter videos, Clinton campaign reveal details of meeting,” CNN, August 18, 2015, accessed May 22, 2017, <http://www.cnn.com/2015/08/18/politics/hillary-clinton-black-lives-matter-meeting>.

with positive reinforcement, with creating love, a system that addresses hate and violence solely in the context of correcting misguided individuals while parading the rhetoric of changing “some systems.”

Across bipartisan lines, both George H.W. Bush, in his rhetoric, represented a politics of changing hearts, through the investment in the Hate Crimes Statistics Act of 1990 (which does not actually outline any concerns about gender as a “protected class”), followed by Bill Clinton’s implementation of the Violent Crime Control and Law Enforcement Act (Public Law 103-322), which contains the Violence Against Women Act (“VAWA allocated substantial funds to states and localities for education, rape crisis hotlines, training of justice personnel, victim services and special units for police and prosecutors to deal with crime against women”)<sup>114</sup>. The VAWA allocates the most funds for training grants for law enforcement, \$800 million, whereas community programs addressing domestic violence are allocated \$10 million. Then come funds for battered women’s shelters (at \$325 million), assistance to victims of sexual assault (\$205 million), and encouraging mandatory arrest programs (\$120 million). VAWA was the first significant legislation to place violence against women, though at the time, it excluded explicit language that would have included certain native women, trans women, non-hetero women, and women of color, black women, and sex workers. The policy discussion of gender bias throughout the 1990’s was largely limited to cisgender women’s issues, particularly an imagined class of women who are without race or other

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<sup>114</sup> Jenness and Grattet, 148.



intersections of identity (disability, undocumented, or survival economies outside of a hetero- domestic sphere).

Likewise, in the 2001 California AG Civil Rights Report, concerns for reforming and “improving” the intake of gender-based violence is limited to cisgender women, particularly the concern being the ability for police officers to distinguish between simply a non-gender based sexual violent act and gender-motivated violence. It states:

An issue which must be clarified regarding gender-based violence is whether every gender-based crime that meets the standard criteria of a hate crime should be classified as one. For example, should a forcible rape by an individual who demonstrates hate against women by using gender-based slurs during the commission of the crime and who would not be perpetrating the act against someone of another gender be classified as a hate crime? Arguments against reporting rapes, attempted rapes and other sexual assaults as hate crimes are that penalties are already available for some of those crimes. Concerns have also been raised that reporting gender-based crimes as hate crimes would draw attention away from racial and ethnicity-based hate crimes, because there are likely to be at least ten times the number of gender-based crimes as all other hate crimes combined.<sup>115</sup>

The very logic here negates both the possibility of a racially and gender motivated violent act and also the assumption that gender-based violence is only contingent on the realm of sexual violence. We see this logic also erase assault of sex workers, as the assumption is that there is no innocent victim in crimes of prostitution. In the history of women’s domestic-violence movement throughout the mid- to late-1990s, women’s organizations continued to lobby and testify federally as to why women were to be protected and included as a protected class in “hate crime legislation.” State coalitions like the 1993

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<sup>115</sup> Lockyer, 31.

California Alliance against Domestic Violence reported that in 1976, “lobbying began on S.B. 91, our first California State public funding earmarked for shelters,” and in 1978 “Shelters workers began laying groundwork to get HUD funds and worked toward buying shelter buildings.” (The California Alliance Against Domestic Violence created three coalitions: the CA Coalition Against Domestic Violence, the Southern California Coalition on Battered Women, the Western States Shelter Network, and in 1980, the California Alliance Against Domestic Violence.)

Activism via direct services on the local level became an increasingly effective and legitimate strategy throughout the United States, but particularly in the antiviolen-against-women movement in Los Angeles and California.<sup>116</sup> The overall concern was specifically in investing in inclusion in the system of hate-crime penalty enhancement, in being treated among its “protected classes.” Whether they are assumed to be “criminal” (with or without a record) or lacking correctly gendered or valid documentation, or perceived as sex workers, many transgender women and LGBT people of color do not consider calling upon the police to be a viable option.<sup>117</sup> Throughout history, asking police to do their jobs has never remained an exacting rubric of procedures, policies, and practices. Particularly for historically and once lawfully repressed communities, police

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<sup>116</sup> Jenness and Grattet, 114-120.

<sup>117</sup> “Transgender people of color were 2.7 times more likely to experience police violence, and 6 times more likely to experience physical violence from the police compared to white cisgender survivors.” See “A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2013,” Anti-Violence Project, New York, NY, 2014, accessed May 5, 2015, [http://avp.org/wp-content/uploads/2017/04/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/wp-content/uploads/2017/04/2013_ncavp_hvreport_final.pdf).

support remains a risk.<sup>118</sup> Andrea Ritchie, LGBTQ lawyer and coauthor of *Queer (In)Justice*, notes that nine out of ten transgender women of color (TWOc) have suffered some form of police brutality in their life.<sup>119</sup> A 2013 report by the National Coalition of AntiViolence Programs (NCAVP) states that “transgender women were 4 times more likely to experience police violence compared to overall survivors, and 6 times as likely to experience physical violence when interacting with the police compared to overall survivors.”<sup>120</sup> In 2014, the same annual report states that trans women are “5.8 times more likely to experience any police violence” and “6.1 times more likely to experience physical police violence.”<sup>121</sup> Twenty years prior, a nationwide survey of hate violence against LGBT people (1985–1998) similarly notes that forty percent of transgender people had experienced “police-initiated violence.”<sup>122</sup> Why, then, would any transgender person, particularly TWOc, reach out to the LAPD to ensure their safety after having been met with police brutality? In times of survival and crisis, this question is never one of political agency or radical self-determinacy. Rather, in crisis, trauma, or being caught in the crossfires of institutional, structural, law enforcement, or interpersonal violence

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<sup>118</sup> In Los Angeles alone, throughout the 1910s up until the late 1960s, there had been anti-sodomy, cross-dressing, and oral sex laws and raids of gay bars. See Lillian Faderman and Stuart Timmons, *Gay L.A.: A History of Sexual Outlaws, Power Politics, and Lipstick Lesbians* (New York: Basic Books, 2006).

<sup>119</sup> Andrea J. Ritchie, “Ending Gender Violence Beyond Carceral Feminisms” (plenary lecture, Color of Violence Conference, Chicago, IL, March 26, 2015).

<sup>120</sup> “A Report from the National Coalition of Anti-Violence Programs 2013.”

<sup>121</sup> “A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2014.” Anti-Violence Project, New York, NY, 2015. Accessed July 29, 2015. [http://avp.org/wp-content/uploads/2017/04/2014\\_HV\\_Report-Final.pdf](http://avp.org/wp-content/uploads/2017/04/2014_HV_Report-Final.pdf).

<sup>122</sup> “Anti-Lesbian, Gay, Bisexual and Transgender Violence in 1998: A Report of the National Coalition of Anti-Violence Programs, Fifth Edition” (New York, NY, 1999), accessed May 25, 2017, [http://ncavp.org/common/document\\_files/Reports/1998ncavpbiasrpt.pdf](http://ncavp.org/common/document_files/Reports/1998ncavpbiasrpt.pdf). The report unfortunately does not calculate the total murders of transgender women of color.

and/or neglect, “calling on the police” is sometimes a “worse but not worst off” option. Reports of “underreporting,” one of the most pressing and prioritized criminal justice reforms to address the shortcomings of hate crimes reports, much like the statistics on police brutality, will often detail the reasons behind the incredible lack of trust between particular (criminalized/targeted/profiled) communities and law enforcement.

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#### IV. Trans/National Queer and Trans\* of Color Spectral Insurgencies to the Failures of Data

*Right after you have your experience with a hate crime, obviously you have to go to the police and make a police report. [...] Whatever the crime, then I guess you get help from some other agencies too, just depends how deep your problem was— if you have to go to the doctor, or maybe even have some type of therapy, mental therapy, emotionally. And then from there the government will assign you or provide you to some type of help and you get a letter to go to court and they will follow with the hate crime and the police report and they will probably give you the U visa permit.*

– Johanna Saavedra of TransLatin@ Coalition

*Discipline for police officers is the province for the Chief of Police. Discipline is based on a number of things - it's based on an individual's history, the consequences of the act, a bunch of different things. This is a para-military organization. Following rules is part of what we base our core values on. The reason there are no specific guidelines within? Is it's all very dependent on the individual 's transgression, their history, if they've had similar misconduct. And that's how we construct discipline.*

–Charlie Beck (Chief of LAPD) at LAPD's LGBT Forum at LA Gay & Lesbian Center Village, April 12, 2012

About four years ago, we went to this LGBTQ LAPD forum where it was at the pigpen (*laughs*), it was downtown, it was right where I live [Skid Row]. They were still armed. Even the LGBTQ officers were (sigh)... The very first video you see is this recruitment video that was, “Look at what we do. We’re just so special. If you’re LGBTQ, we got you. And if you’re not documented we got you too.” You have this co-opted message from them where we never fight against it. [...] I say, how do we delegitimize the police?

--Chella Coleman of LA-Community Action Network

#### *To Translate the Trans-National of Los Angeles*

M. Jacqui Alexander writes, in *Pedagogies of Crossing* on “Transnationalism, Sexuality and the State” that to understand transnationalism, one must understand the heterosexual and regulatory practices of “three social formations—the colonial, the neocolonial, and the neo-imperial” and very deployment of sexuality as a:

[...] nation-state formation: notably the complicity of state and corporate processes in the manufacture of citizenship normativized within the prism of hetero- sexuality, and the indispensability of both processes to the project of nation- building, which often inaccurately is assumed to be a completed project within neo-imperial social formations yet assumed to be always ongoing within the neocolonial.<sup>1</sup>

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<sup>1</sup> M. Jacqui Alexander, *Pedagogies of Crossing: Meditations on Feminism, Sexual Politics, Memory, and the Sacred* (Durham, NC: Duke University Press, 2005), 181.

Alexander further cogently outlines the nexus in which the nation-building as empire building will always aspire to a telos of transnational progress, that both then normalizes 'hetero to homo militarism' and in turn, through a gendered racial market capitalism, develop inchoate hetero, homo, and would extend trans\* private citizenship.<sup>2</sup>

Nearly ninety years prior to Alexander's critical discourse on the imbedded and overt legal violence of heterosexuality as a project of (trans)national empire building, Randolph Bourne, an enthusiast of Rousseau and a critic of the then new fangled American melting-pot theory, penned an article in 1916 titled "Trans-national America." Bourne is largely cited and credited for the invention of the concept of "transnational." In the context of the costs and failures of World War I, he wrote in *The Atlantic Monthly*,

No reverberatory effect of the great war has caused American public opinion more solicitude than the failure of the 'melting- pot.' The discovery of diverse nationalistic feelings among our great alien population has come to most people as an intense shock. It has brought out the unpleasant inconsistencies of our traditional beliefs.<sup>3</sup>

For Bourne, against the process of consolidation and homogeneity of a "melting-pot," the "alien population," in his revelation, indeed asserts "diverse nationalistic feelings," challenging what otherwise his imagined majority of Americans valued consistent and shared "traditional beliefs." Such an image of shared traditional beliefs, even in its reform of such an assumption, is always imbedded and inured by a violent logic of the natural order and trajectory of settler colonialism, genocide, racial subjugation and the slavery. Bourne, both as an apologist and reformer of the failing process of "Americanization,"

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<sup>2</sup> Ibid., 246.

<sup>3</sup> Randolph Bourne, "Trans-national America," *The Atlantic Monthly* 118 (1916): 86-97.

sought to recuperate the alien as the other—who, in their diverse integration, was deserved of being constituted by both their difference and American-ness. Moreover, the original settler colonist as formulating the bedrock standard of what then was “same” about America—who, in their monolith of shared majoritarian traditions, was simply in need of reform, accepting a more invitational multicultural pluralism. Bourne continues, in criticism of “Brahmins,” the exclusionary originating elite of Mayflower and Plymouth Rock New England aristocracy, “We have had to watch hard-hearted old Brahmins virtuously indignant at the spectacle of the immigrant refusing to be melted, while they jeer at patriots like Mary Antin who write about ‘our forefathers.’”<sup>4</sup> Here, Mary Antin, a Russian Jewish immigrant, is penned as the patron saint of immigrants and, like Bourne, sought to uphold the diversity of culture, language and ethnic identities. The New England Brahmin ideological approach and attitude of “melting-pot” thus assumed a melting as an assimilatory process of eroding and effacing difference. Although such a critique would seem liberal in its challenge of ethnic and cultural erasure, such a critique still relies on both 1) the disappearance and genocidal violence and displacement of indigenous first nations, and the 2) imperative and necessity of stolen and captured black bodies through the Atlantic slave trade. From this debate, the very roots of the concept of trans-nationalism took hold. Additionally, Bourne formed a position rather in favor of “dual citizenship”, one in which American necessarily was a “trans-national” nation, one where the cooperation and differences of aliens were, in sum, necessary to the re-vision of Americanization as a multicultural heterogeneous process, one that both commands

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<sup>4</sup> Ibid.

certain types of assimilationist national protocols, but one that must favor and boast of diversity, diversification, and difference in order to protect and re-form American national security, borders and capitalism; the robust integration of the alien, the cultural tolerance for the once-foreigner, the naturalization of the settler, and the disappearance of the blood of the enslaved and colonized.

Prepared by the newly established State Commission of Immigration and Housing of California, as part of the January 1918-1919 document, “Americanization: The California Program,” section “Americanization: Suggested Lines for Speakers and Workers” states:

1. The immigrant is an actual, present and imperative problem. The first and second generations form a third of the nation, a half of California. It must be shown that owing to his great numbers, the immigrant enters vitally into all our industrial and defense movements.<sup>5</sup>

Here, during this turn of the century in the early decades of the 1900s, California Republicans led the reform movement to establish progressive era politics and governing, ranging from education, labor, social, economic and gender reform, much of which, most notably, excluded people of color. The polity of Americanization was to suggest, progressively, that immigrant(s) had the potential to contribute greatly to industrialization and development of American capitalism as well as American imperialism, militarism and waging foreign war. The document continues, in bullet point 2, to state:

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<sup>5</sup> “Americanization: The California Program” and “Americanization: Suggested Lines for Speakers and Workers,” State Commission of Immigration and Housing of California, Sacramento, CA, 1918, 1919.

2. He may be either an asset or a menace, and which he shall be lies not primarily with him, but with us. He is helpless to control the conditions into which he steps when he enters our country—only we can determine them.<sup>6</sup>

According to this body, the potential therefore of Americanization and assimilation of the immigrant, is either one of success or failure, where the quality and programmatic governing and implementation of assimilation must be determined in full by the receiving country. Not only is the desire and formulation of the naturalization of nativeness of Americanization assumed, but such an ideology of “inclusion” by any means necessary already predetermines both the necessity of national and California agenda of genocide, slavery, and indentured servitude/work programming, one in which trans-nationality is subsumed and reprogrammed to establish American nationalism, and likewise, the state program and mandate of a immigrant inclusive California—the alien and the foreigner as always potentially an American patriot in the making. The language of “menace” as attached to the figure of the immigrant, even a century later in 2017, seems no less outlandish in current political moment of Trump administration immigration rhetoric and executive order policies. The 1918 document, however, in a cohesion to current progressive and liberal sentiments in describing the good immigrant, reads (bullet point 4): “...but he is no less human, no less valuable, no less important than we—he is “just folks.”<sup>7</sup> Such rhetoric of human decency via currency towards national security, homogeneity in patriotism, and adoption and assimilability into American “folk-ness” of the immigrant, one which folk-ness and menace-ness are of complete opposition.

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

In *Race, Place, and Reform in Mexican Los Angeles*, Stephanie Lewthwaite describes the ways in which simultaneous “assimilation and Americanization” of the settlement of Mexican immigrants in Los Angeles in the 1930s, through entities such as the California Commission of Immigration, sought to both control and yet make visible, nonwhite immigrant communities, particularly their ability to conform, adapt, yet remain wholly heterogeneous from white American identity, and as, therefore, transnational in their identity and relation to both California and Mexico.<sup>8</sup> Transnationality, according to Lewthwaite, is in part the literal dual crossing and geographic ties to California and Mexico. As early as the 1930s, California in many ways conceived of itself—its political constituents and potential—as one that necessitated the integration, assimilation, and loyalty of the immigrant. The mode in which indigenous violent erasure and anti-black racism congealed, via, respectively, the disappearance of the native and the instantiation of the settler American as the true “native,” and the comparative racialized logic of assimilable/unassimilable, respectable/disrespectable, productive/lazy, have plagued the figures of the native, immigrant, and black Americans. Such racial triangulations, where white and black are metrics for racial hierarchy, and where the native is not locatable and the immigrant (brown, Asian, Arab, etc.) is used to broker a diversity of racial proximity to whiteness. The motif of the inassimilable nonwhite figure is considered to reach its supposed predictive outcome, the overthrow of the nation; whether in race-related rioting or labor strikes, although historically diasporic, the figure of the immigrant laborer of

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<sup>8</sup> Stephanie Lewthwaite, *Race, Place, and Reform in Mexican Los Angeles: A Transnational Perspective, 1890-1940* (Tucson, AZ: University of Arizona Press, 2009), 101.

color continues to haunt capitalism and the structures of policing and criminalization that followed (Wheatland Hop Labor riot of 1913, Oxnard strikes 1903). The figure of the menacing alien depicted in these turn of century state publications returns, a century later, in the making of the foreign terrorist, the criminal, and the gang member.

In *Space of Detention: The Making of a Transnational Gang Crisis between Los Angeles and San Salvador*, Elana Zilberg describes the corridor in which transnationalism, particularly pursuant to post 9/11 counterterrorism efforts, became enshrined through the simultaneity of an anti-immigrant, anti-crime and anti-terrorist initiative throughout the United States, dubbed a “gang-crime-terrorism continuum. Zilberg states it is in such a transnational continuum that engorge “the power of law and law enforcement in producing and reproducing crime.”<sup>9</sup> That is to say, the contention in which borders are made to be protected and bounded therefore require the permeability of liminal space, one which is perpetually menaced by (foreign) terrorism and (domestic) crime and both (transnational/domestic) gang violence. Such liminality, however calculated in its (non)porousness, further reestablishes the necessity for law enforcing entities and law itself to organize, legislate, and give meaning to what makes a crime. How then such crimes are defined and pursued and punished, and thus the expansion of such entities in controlling—and thus “producing and reproducing”—occupies then the very accounting, industrialization and datafication of crime.

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<sup>9</sup> Elana Zilberg, *Space of Detention: The Making of a Transnational Gang Crisis between Los Angeles and San Salvador* (Durham, NC: Duke University Press, 2011), 9.



The speculation and actualization of naming and typifying new forms of crime, like hate crimes, thus is a self-fulfilling prophecy. If, say, sneezing, became a crime, the establishment of what constitutes a sneeze (audibility, projection, etc.), what degrees of sneezes were more or less penalizable, and in what settings the sneeze would occur in which it was considered illegal, suddenly the production and reproduction of the crime of sneezing would therefore be established. With a population over ten million, and with nearly a million (850K) undocumented immigrants in Los Angeles County alone, the highest in the state of California (with 2.6 mil total), studies have reported that one out of ten workers in California are undocumented (Mexico, El Salvador, Philippines, Guatemala, Korea). How then do legal frameworks such as asylum and U visas, particularly in terms of how we understand the project and industry of hate crimes on a global or transnational scale, implicate the geopolitical space of the United States, California, and Los Angeles? How does hate crimes as a tenant in the house of democratic neoliberal modernity, perfectly model a benevolent state exceptionality in its recuperation of its own sordid genocidal history and current practices of racialized, gendered, and ableist carcerality through its reproduction of the figure of the hate-filled criminal?

### **Trans\* of Color Transnational Pinkwashing and U visas**

The U visa is one of the only visas that allow for state protection to be extended to individuals, regardless of their sexual orientation or gender identity, to report sexual assault, domestic violence and or other violent crimes such as hate crimes. LGBTQ

immigrants therefore have the potential to petition for asylum and or make use of certain protections as outlined in VAWA and U visas in order to remain in the United States. On June 16, 1994, as acting Attorney General for the United States, Janet Reno mandated an order that would protect those who were solely prosecuted in other countries due to their sexuality/sexual preference to seek political asylum to remain in the United States. Cuban immigrant/refugee, Fidel Armando Toboso-Alfonso's case, a petition for political asylum as early as 1986 for prosecution against his homosexuality, set a new precedence in LGBTQ asylum cases, now still known as the groundbreaking Toboso-Alfonso decision. In "Queering Mariel: Mediating Cold War Foreign Policy and U.S. Citizenship among Cuba's Homosexual Exile Community, 1978–1994," Julio Cupo writes:

The Toboso-Alfonso case provides further evidence for how marielitos effectively challenged immigration and refugee policy in the United States. Attorney General Janet Reno established that ruling as the new precedent for refugee/asylum cases in 1994, four years after the BIA's decision in the Toboso-Alfonso case. Reno formally established the ruling as the new law of the land and supported the BIA's decision in the case, ultimately changing—at least statutorily—the role of (homo)sexuality in shaping immigration and refugee politics in the United States.<sup>10</sup>

In the earlier moment of the Refugee Act of 1980, the role of disclosure of one's homosexuality was evidence and proof of disqualification of finding refuge in the United States, a *veritable don't ask don't tell*. Over the course of about fourteen years, the United States changed its political refugee policy to, in effect, accept and affirm homosexual or sexual minoritized identities. Effectively, such declarations coincided with the

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<sup>10</sup> Julio Capo Jr., "Queering Mariel: Mediating Cold War Foreign Policy and U.S. Citizenship among Cuba's Homosexual Exile Community, 1978-1994," *Journal of American Ethnic History* 29, no. 4 (2010): 78-106.

establishment of VAWA, and likewise the state's ability to both steer and set a course in which nationalist neoliberal agenda of being anti-communism too meant typifying the practices of state antidiscrimination, particularly in terms of victims of persecution and foreign political "hate." To therefore become a "victim" of totalitarian or communist regime means that one must too participate in the reproduction of power and governmentality of their now more accepting host country.

In Refugee, Asylum, and International Operations Directorate's (RAIO) "Combined Training Course: Guidance for Adjudicating Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugee and Asylum Claims Training Module," the manual details the variety of ways in which persecution and discrimination are evidenced in one's previous experience, whether legally in law and or practice, in private domestic space, in public cultural space; the question is how can one exact the extent by which a victim of gender- or sexuality-based persecution in one's country of origin has established a well-founded fear of returning "home" to endure future persecution and/or as a result of persecution of the past?<sup>11</sup> The manual carefully trains adjudicators to not make US-centric assumptions about how one narrates their LGBTI identity or experience and thus pushes back against assumptions of how a gay person should "act" or "look," discouraging adjudicators to assume that non-US-born refugees/immigrants would use US-centric LGBT terminology or presentation. In other words, the training of

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<sup>11</sup> "RAIO Combined Training Course: Guidance for Adjudicating Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugee and Asylum Claims Training Module" (Refugee, Asylum, and International Operations Directorate (RAIO), US Citizenship and Immigration Services, US Department of Homeland Security, 2011).

adjudicators is to accept the potential possibility of many endless variations of claims of LGBTI self-representation and less familiar forms of anti-LGBTI persecution. The manual concludes:

Adjudicating LGBTI refugee and asylum claims presents certain unique challenges. It is important to remember to be sensitive to the issues, familiar with the terminology, and familiar with relevant country of origin information. By definition, these claims involve the most private of matters – sexual orientation, gender identity, and sometimes serious illness. Always remain respectful and nonjudgmental, don't be afraid to acknowledge your discomfort to yourself and to the applicant. Familiarize yourself with the legal nuances involved in these types of cases and do your best to elicit all relevant details without re-traumatizing the applicant or being insensitive.<sup>12</sup>

The assumption that, with a kinder sensitivity towards the variety of anti-LGBTI experiences and LGBTI-self-identifying narratives, the kind of open-minded adjudication will prove to allow for the best possibility for verifiable asylum claim to remain in the United States. However, the burden of proof and evidence-making falls on behalf of the victim seeking asylum and also, thus, the victim's ability to participate and cooperate with such state institutions. In total, all of these mechanisms—the adjudicator, the US-imperial legal LGBT-friendly framework, the re-colonization of nation-state borders, the reification of the power of US citizenship—provide a story of US domestic democratic tolerance versus foreign undemocratic intolerance.

In the case of “U visas,” or the “U-nonimmigrant visa,” such an application, if successful, would grant legal status temporarily those who are undocumented and victims

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<sup>12</sup> “RAIO Combined Training Course: Guidance for Adjudicating Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Refugee and Asylum Claims Training Module” (Refugee, Asylum, and International Operations Directorate (RAIO), US Citizenship and Immigration Services, US Department of Homeland Security, 2011), 46.

to a violent crime. The U visa potentially allots family members the possibility of obtaining legal status as well, employment authorization, and the possibility of application for the permanent resident status.<sup>13</sup> The U visa therefore acts as a potential promise of US benevolence and LGBT citizenry, and homonationalist aspirations.

In the process of recruitment into the nationalist body via the U visa, one must prove their status as a true “victim” domestically, and of a violent crime. That injury must be evidenced as that which is sustained and suffered (physical, mental, emotional) due to the violent nature of the crime. In pursuing a successful U visa application, the victim must, unequivocally support and participate with law enforcing agencies through the investigation and prosecution of said violent crime. The assumptions here include the framework within in which both “violence” and “crime” are contextualized as an interpersonal harm that must then be verifiable through its ability to be prosecutable. Hate crimes are generally riddled with the same foundational issues concerning the legality and qualification of what constitutes a crime. Specifically, in qualifying a violent crime as a hate crime, one can graduate to be eligible for legal status in the United States. Some of the specific stipulations that allow one to be a candidate for a U visa include:

1. You were the victim of a qualifying crime that violated U.S. laws.
2. You suffered physical, mental, or emotional injury because you were the victim of the crime.
3. You have or will cooperate with law enforcement and will help in the investigation or prosecution of the crime.<sup>14</sup>

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<sup>13</sup> Jeanine Braud, Criselda Haro, Olga Tomchin, and Jeffrey Selbin, “U Visas for Immigrant Victims of Hate Crimes: A Practice Guide for Advocates” (research paper no. 2459315, School of Law, Public Law & Legal Theory, University of California, Berkeley, CA, 2014), 5, accessed May 25, 2017, <https://ssrn.com/abstract=2459315>.

<sup>14</sup> Ibid.

For last requirement, it is a coercive cooperation that requires the participation in the criminalization of the harm doer, regardless of relation or association that might put then the U visa seeker at more risk.<sup>15</sup> Critical race legal scholar Lee Ann Wang describes how Asian American immigrant women, particularly U visa cases, are forced into a nonconsensual relationship of necessity with police and law enforcement agencies. In critiquing U visas, Wang states, “immigration law [is] designed to protect undocumented immigrant women from violence by enlisting them as ‘cooperators’ in service of the police, [yet are] shuttled between positions of innocence and culpability and are invented as new kinds of legal subjects who expand criminal enforcement while being marked as objects of legal protection.”<sup>16</sup> She notes as a caveat in her focus of U visas as assumed under the proto-victim of the immigrant woman:

The visa presents itself as an application that is open and “gender-neutral” to all applicants. However, in order to critique the inherent violence of the universality of this legal scheme, I will continue to refer to the immigrant woman as the legal subject of the U visa, because the immigrant woman is this subject who is not only historicized by the visa’s legislative statute, the Violence Against Women Act, but who also drives protection as a legal discourse in this case.<sup>17</sup>

Wang describes how the somehow equity-based gendering within U visa legal discourse both purports a kind of gender-neutral protection, yet historically has been federally funded under its attachment to the 2013 amendment of Violence Against Women Act via

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<sup>15</sup> Ibid. The literature states, “Cooperation with the investigation or prosecution may mean making a police report, staying in touch with police or the District or City Attorneys’ office, testifying against the person who hurt you, etc.”

<sup>16</sup> Lee Ann S. Wang, “Unsettling Innocence: Rewriting The Law’s Invention of Immigrant Woman as Cooperator and Criminal Enforcer,” *The Scholar & Feminist Online* 13.2 (2016), accessed May 25, 2017, <http://sfonline.barnard.edu/navigating-neoliberalism-in-the-academy-nonprofits-and-beyond/lee-ann-wang-unsettling-innocence-rewriting-the-laws-invention-of-immigrant-woman-as-cooperator-and-criminal-enforcer>.

<sup>17</sup> Ibid.

the Victims of Trafficking and Violence Protection Act of 2000 (including the Battered Immigrant Women's Protection Act). Wang further clarifies that the very language and figure of immigrant women is not presented as a mode of exclusivity or exclusion to other potential applicants and victims; rather, this very legal and gendered figure positions a certain violent project of patriarchal colonial rescue as both feminine *and* racialized subject.<sup>18</sup> This is to say for the LGBT subject, such act of rescue is due in part or whole based on their delegitimization in otherwise wrongly overt patriarchal (undemocratic) countries of origin. The implication here is that there are certain processes of just and unjust repatriation, and the litmus is one in which the American federal legislation and criminal justice system are best in both collecting evidence, demanding full cooperation and adjudicating the promise of one's verifiable victimization and potential threat through future repatriation.

In his chapter "Who Claims Modernity: The International Frame of Sexual Recognition," Randall Williams narrates the establishment, as early as 1978, of gay organizations with an "international" reach, specifically the International Lesbian and Gay Human Rights Commission (ILGHRC) located in San Francisco. The ILGHRC primarily sought and fashioned the figure of the queer immigrant who sought reunification based on a domestic partnership division due to national borders and mismatched citizenship. This very struggle to make sexual rights an issue of human rights tended towards a complete depoliticization of otherwise third world and poverty-based solidarity that embodied and animated revolutionary multi-issue politics of organizations

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<sup>18</sup> Ibid.

like the Gay Liberation Front. Emily K. Hobson writes in *Lavender and Red: Liberation and Solidarity in the Gay and Lesbian Left*:

Quite a lot happened after Stonewall. Over the course of the 1970s and 1980s, gay and lesbian leftists pursued an interconnected vision of liberation and solidarity, a combination they frequently represented through the metaphor “lavender and red”—the first color indicating gay and lesbian sexualities, the second the internationalist left. They engaged socialist and women of color feminism and struggled against the US and global New Right.<sup>19</sup>

International third world solidarity and leftist movements became subsumed and quickly out-resourced by growing international institutional nonprofit funding model, refashioning the otherwise hard-won coalitions that banded together against imperialism. Led by transnationally-posturing human rights institutions such as Human Rights Watch and Amnesty International, questions and strategies of addressing the active legacies and engagement of militarism, state violence and imperialism became immured into regulatory conceptions of human rights.

Not only did pinkwashing imply a cohesive union between national militarism and gay rights advocacy centered on state belonging and inclusion into these terror-inducing institutions; but it also implied state-partnering nonprofits and NGOs that consented to a configuration of right-based life security model via law-enforcement expansion and violence. The combination of international NGOs and transnational rights-based activism sought to shroud their very foundation as both a consequence and further possibility of US imperialist and settler colonial conditions. Such historical and material conditions regulated and programmed the appropriate channels, issues, and degree in

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<sup>19</sup> Emily K. Hobson, *Lavender and Red: Liberation and Solidarity in the Gay and Lesbian Left* (Oakland, CA: University of California Press, 2016), 4.



which gay and lesbian politics could be incorporated as a subsequent extension to US nationalist interests.

Johanna, one of the participants in a set of community-led roundtables from 2015 (to be discussed later in this chapter), explains in detail the ever-present negotiations and excessive hoops and barriers one must interface with in order to be considered for a U visa permit. Like in the case of U visas, hate crimes too require a predetermined coercive relationship or carceral cooperation. To gain eligibility for a U visa through the reporting of a hate crime requires both the material documentation and evidence-making via the authorization of law enforcement agents—furthering a dependent cycle for those in crisis and for a cyclical self-preservation of a carceral state. U visas, asylum petitions, and hate crimes are only possible under the pretense of the wrong doing of one party and the wrong done to another. Similarly, it continues to verify the presence and continuum of reform towards state-based justice through the re-corroboration of the life and legacy of the carceral state and its ability to become and made better.

*The “P” Stands for Pinkwashing or Police in L.A.P.D. ?*

In 1989, Bienestar was founded, a non-profit social service organization serving the HIV-affected, LGBT Latinx community, with a trans Latina programming and services beginning as early as 1996. In 2012 Bienestar, with funding from UCLA’s Williams Institute, released a report on the state of law enforcement (police, sheriffs, prison guards, treatment ranging from verbal hostility, negligence, abuse, and violence) of the Trans Latina community, interviewing 220 women, primarily Spanish-speaking,

over half identifying as undocumented.<sup>20</sup> The report unequivocally reported the overwhelming violence and abuse that Latinx trans women faced at the hands of police, with nearly a quarter reporting both physical and sexual violence. The report however couched much of this violence in terms of mistreatment and negative interactions, ones in which individual law enforcement interactions failed to meet the standard respect and protocol that is expected of sworn public servants. Adjectives such as poor, lack, and negative assume that there then is a counter of, respectively, sufficient, full, and positive modes of policing and law enforcement.

The Bienestar report, conducted by a Sociologist/Gerontologist (Mohsen Bazargan) and then Bienestar Director of Research and Evaluation, makes a priority for recommendations “provided by the participants” of “how law enforcement’s interactions with the transgender community can be improved.”<sup>21</sup> Oscar De La O, Bienestar President and CEO stated, “Our transgender sisters already face stigma and violence across so many facets of society, law enforcement should not be part of that discrimination. By analyzing the experiences of these 220 individuals, we can learn a lot about their interactions with law enforcement and identify next steps that we can take to improve their situation.” De La O situates the possibility of approved life, life improvements, and betterment as contingent on the priority of the adjustment of interactions on behalf of law enforcement towards transgender Latinx sisters. The re-centralization of police reform

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<sup>20</sup> Jordan Blair Woods, Frank H. Galvan, Mohsen Bazargan, Jody L. Herman, and Ying-Tung Chen, “Latina Transgender Women’s Interactions with Law Enforcement in Los Angeles County,” *Policing* 7, no. 4 (2013): 379-391.

<sup>21</sup> Bienestar’s Director of Research and Evaluation co-authored the report along with Mohsen Bazargan, Ph.D., of Charles R. Drew University of Medicine and Science.

and sensitivity trainings as the most urgent mode, and even singular mode of harm reduction, does not challenge our cultural understanding of the point of contact between law enforcement and trans-feminine subjects. What then are the necessary adjustments to understand the entrapments of reform that simply *ask* for better treatment, a softer profiling? Report researcher Frank H. Galvan, states

Respect by law enforcement is something that Latina transgender women, and all transgender people, should expect from police personnel. Actions that can promote such respect should be undertaken by both police agencies and members of the transgender community. Together these can result in improved relations between law enforcement and the transgender community.<sup>22</sup>

For Galvan, and for much of the literature and advocacy from and within agencies and organizations such as the Los Angeles LGBT Center and Los Angeles Transgender Taskforce, the ability for a less deathly and less hostile exchange is one in which seemingly equal parties, law enforcement and community members, need to focus on the possibility of “improved relations.” This assumption that the issue is one of interpersonal slight, misunderstanding, or undue friction, evades real questions surrounding the structural and historical invention and expansive force of law enforcement and prognosis of carceral. Indexed by white supremacist, settler colonial racial capital, improved law enforcement relations simply implies a temporary subdued and suspension of corrective punishment for another body or institution to enforce.

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<sup>22</sup> Woods et al.

In summary, the Bienestar report lists the following three recommendations:

1. Increased training on transgender issues for all law enforcement agencies
2. Increased communication between law enforcement and transgender women
3. Increased knowledge of their legal rights by members of the transgender community.”<sup>23</sup>

Again, in effect, the progressive vision of reform between Beinstar in association with UCLA Williams Institute situates the failure of a more respectful interaction as a failure of being adequately informed, from both parties, LAPD and transgender women of color.

The Bienestar report, however strategic, was released in the wake of a trans-responsive memo released by LAPD chief Charlie Beck. On April 12<sup>th</sup>, 2012, Beck hosted an LGBTQ Forum at the Los Angeles LGBT Center Village, with assistance from LAPD Assistant Chief Sandy Jo MacArthur, Karina Samala, director of the LAPD Transgender Working Group, and Shirin Buckman, who represented the city in the Transgender Working Group. This event was a celebratory launch of the signing of the three-page Personnel memo from Beck’s desk directly to all LAPD Department personnel regarding “Police Interactions with Transgender People.” Many community representatives considered both the event and memo a momentous win for the transgender community in Los Angeles. The supposed victory was one in which anti-transgender violence, harassment, and hostility on behalf of police towards transgender people would be considered culturally inappropriate; moreover, in official writing, the acting LAPD chief in command detailed the ways in which his staff should respectfully, gently, and sensitively criminalize transgender people. *Longtime director of legal*

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<sup>23</sup> Ibid.

*services for the LA Gay & Lesbian Center, Roger Coggan, regarded these new guidelines as simply “historic.”* Karina Samala, a prominent Trans Filipinx elder and leader in community stated, “We are thrilled that the procedures and policies have been published and are being implemented by LAPD today...This is a victory for all of us...This is a new LAPD.”<sup>24</sup> Karina Samala, Coggan of the LA Gay & Lesbian Center, and researchers of Bienestar, locate trans\* survival as contingent on the betterment of behavior of those who enforce the law and the will of the state. Through the rhetoric of improvement, progress, and alliances, the coercive tactics of law and order decidedly assumes there exists no power differentials: both trans Latina women and law enforcement agencies are simply two parties with a lack of fuller compassion and understanding for each other. This prescribed understanding thus renders all issues of police violence as one that simply requires improved training, sensitivity, and cultural competency.

Journalist Karen Ocamb, in attendance at the LGBTQ Forum, posed to Chief Charlie Beck, however reluctantly, “1) What are the consequences if the new Guidelines are not followed? 2) How does the LAPD respond to the new data revealed in Bienestar’s report?”

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<sup>24</sup> Under the guiding principles of remaining “professional, respectful, and courteous,” the LAPD memo frames betterment in terms of respective language (chosen gender and name), and that “Recognize that non-traditional gender identities and gender expressions do not constitute reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime.” Further, the LAPD is asked to follow these guidelines: 1) not “[questioning] a person’s gender identification;” 2) not demanding “proof of an individual’s gender” during questioning; 3) not “[perform] a search or frisk for the sole purpose of determining an individual’s anatomical gender;” and 4) not subject “Transgender individuals...to more invasive search or frisk procedures than non-transgender individuals.”

Ocamb reports Beck's response in stating,

Discipline for police officers is the province for the Chief of Police. Discipline is based on a number of things: it's based on an individual's history, the consequences of the act, bunch of different things. This [LAPD] is a paramilitary organization.<sup>25</sup>

By definition, the LAPD is being described as a paramilitary, or “a semi-militarized force whose organizational structure, tactics, training, subculture, and (often) function are similar to those of a professional military, but which is not included as part of a state's formal armed forces.”<sup>26</sup> For Beck, the declaration of LAPD as a paramilitary organization is one of pride—a tour de force, fraternal and hierarchical organization that is both simultaneously expansive yet anchored by the command post of the Chief of Police. In defense to Ocamb's question, Beck both asserts his ultimate power in disciplining all officers, framing transgressions as an individual offense by individual officers, and thus the individuated outcome and discipline of bad acts. By noting both the individual's officer's past history of transgressions, any acts placed under scrutiny are thus understood in relation to the individual officer's record of conduct.<sup>27</sup> Regardless of the actual result of the offense or harm done, the disciplinary measures remains at the full discretion to the instruction by the Chief of Police. In likening the nature of LAPD to a paramilitary organization alongside the context of disciplining misbehaving individual officers—in

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<sup>25</sup> Karen Ocamb, “LAPD Announces Historic New Trans Guidelines & Policies,” The Bilerico Project, April 14, 2012, accessed March 12, 2017,

<sup>26</sup> Paramilitary is defined as “Designating, of, or relating to a force or unit whose function and organization are analogous or ancillary to those of a professional military force, but which is not regarded as having professional or legitimate status.” “Paramilitary,” Oxford English Dictionary (Third Edition), June 2011, accessed March 12, 2017, <http://oed.com/search?searchType=dictionary&q=paramilitary>.

<sup>27</sup> Beck is noted as further stating, “Following rules is part of what we base our core values on. The reasons there are no specific guidelines within? Is it's all very dependent on the individual's transgression, their history, if they've had similar misconduct. And that's how we construct discipline”

this case, towards transgender individuals—this very co-distinction of paramilitary and transgender-friendly are uttered in as not at odds, but as the former making the latter possible. In other words, there is simply no contradictions for the LAPD to both aspire to paramilitarism and trans-sensitivity/inclusivity—that is, the very definition of inclusion into the state body and state protection thus requires the expansion and excellence of law enforcement accountability. As the LAPD alone has toured to Israel, the United Kingdom, Australia, and Canada to offer militarized police and intelligence-gathering trainings under the moniker of a transnational “convergence strategy,” the transnational cooperation and extension by which LAPD materially has invested and been invested in via other militarized local police departments and nation-states demonstrates the non-hyperbole of the term “paramilitary” being touted as a most-accurate descriptor by Beck. In sum, discipline and disciplinary responses to infractions or offenses by individual officers is wholly disaggregated from the institutions and structures that condition, perpetuate, and organize the possibility of violence, both interpersonal and organizational. Not only does the premise of accountability via discipline favor and assume discretionary internal threats of penalty; but it also renders abolition or nullification impossible and outlying, since justice and accountability, in the context of the criminal justice system, must protect its ability to reproduce its capacity to law enforce.<sup>28</sup>

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<sup>28</sup> Beck further stated, “But believe me, rules in the Los Angeles Police Department are meant to be followed. This is not an organization that puts out rules and has no consequences for not following them. That is not the nature of police work—and it’s certainly not the way I run the police department.”

## **Carceral Data versus Entangled Ethnography**

Ethnography itself is considered a genre of study and writing that makes possible the scholarly work of reflecting and studying as situated within and “on the ground” in a field or site. The “critical” in critical ethnography, most notably fleshed out in D. Soyini Madison’s *Critical Ethnography: Methods, Ethics and Performance* (2012), “is that which then demands an ethical responsibility to address processes of unfairness or injustice within a particular *lived* domain... a compelling sense of duty and commitment based on principles of human freedom and well-being and, hence, a compassion for the suffering of living beings.”<sup>29</sup> The intervention here to traditional ethnography is in otherwise the role of the scholar’s “ethical responsibility” and specifically in terms of witnessing local injustices and the suffering of others.

The ethics of activist ethnography are relational and contextual, a product of reciprocity between collaborators, and negotiated in practice. Relational-ethical positionalities are required for dignity, self-determination, and empowerment, acknowledging that any collaborative ‘we’ constitutes the performance of multiple lived worlds and an entangled web of power relationships. This contrasts with Habermasian notions of consensus reached through dialogue that is decided by the most persuasive argument, because a relational ethics acknowledges the plurality of voices and positionalities that compromise political collaborations.<sup>30</sup> The turn towards various forms of critical multi-vocal ethnography (community, collective, collaborative) created a new foundation for more un-disciplinary ethnography (relational, transformative, and praxes of refusal). In going beyond autoethnography, Gail Simons describes relational ethnography, as the “reflexive dialogical aspects of research

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<sup>29</sup> D. Soyini Madison, *Critical Ethnography: Method, Ethics, and Performance* (Los Angeles, CA: Sage Publishing, 2011), 5.

<sup>30</sup> Paul Routledge, “Activist Ethnography and Translocal Solidarity,” in *Insurgent Encounters: Transnational Activism, Ethnography, and the Political*, ed. Jeffrey S. Juris and Alex Khasnabish (Durham, NC: Duke University Press, 2013), 265.



relationships” with a central focus role of relationality.<sup>31</sup> Matthew Desmond, in critically challenging the traditional colonizing force of turn of the 20<sup>th</sup> century ethnographers, that relational ethnography offers the potential of studying “fields rather than places, boundaries rather than bounded groups, processes rather than processed people, and cultural conflict rather than group culture.”<sup>32</sup> Similarly, transformative ethnography is described as “constitutive tension between theory and practice, eschews the abstraction of absolute knowledge from the lives of agents and rejects extractive investigative practices generally. Instead, it emphasizes the embodied nature of consciousness and the contextual uniqueness of human knowledge relationship.”<sup>33</sup> The transformation and possibility of ethnography is in its capacity to upset the dichotomous relationship between theory and practice, and resist the academic imperial penchant to extract, make abstract and objective (without relationship to), to colonize and make known to institutions of white supremacist power.<sup>34</sup> Whereas the decolonial act of ethnographic refusal, as outlined by Mohawk scholar Audra Simpson, is an issue of sovereignty—specifically, the relation of indigenous persons to settler nations. Sovereignty guides what

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<sup>31</sup> Gail Simon, “Relational Ethnography: Writing and Reading in Research Relationships,” *Forum: Qualitative Social Research* 14, no. 1 (2013), A=accessed May 25, 2017, <http://nbn-resolving.de/urn:nbn:de:0114-fqs130147>.

<sup>32</sup> Matthew Desmond, “Relational Ethnography,” *Theory and Society* 43 (2014): 547-579.

<sup>33</sup> Giuseppe Caruso, “Transformative Ethnography and the World Social Forum,” in *Insurgent Encounters: Transnational Activism, Ethnography, and the Political*, ed. Jeffrey S. Juris and Alex Khasnabish (Durham, NC: Duke University Press, 2013), 229-249. For more on this discussion, see Dewey 2007, Merleau-Ponty 1962; Damasio 2005; Lakoff and Johnson 1999; and Edelman 2004.

<sup>34</sup> *Ibid.* Caruso continues, “[...] a process of recognition, adaptation, and transformation by focusing on relational attitudes in collaborative work, ethnographic reporting, and collaborative theorizing [...] deliberation toward transformative action within transnational activist networks, the academic community, and society by highlighting recurring relational patterns as matters of practical and theoretical concern emerging out of the friction produced by cultural, social, and political differences within activist, academic networks, and society.” See also, Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (New York, NY: Oxford University Press, 2007).

can be known and not known. As a Mohawk scholar writing alongside her community of Mohawk peoples, the shared resistance tactic of ethnographic refusal to the otherwise colonizing force of ethnography is in itself an decolonizing act of sovereignty. Simpson writes, “Rather, it is my proposition that to think about ‘sovereignty’—a construct which is always a bestowal and as such is deeply imperfect but critical for these moments in Indigenous/Settler State relations—is to think very seriously about needs and, basically, involves a calculus ethnography of what you need to know and what I refuse to write in.”<sup>35</sup> From the strategic positions of transformative, relational and ethnographic refusal, ethnography as an un-datafiable end, is instead the inverse of delineation— rather, an entanglement of relational differences.

In my own research, my positionality as a Tawainese-born trans and queer immigrant-raised scholar has allowed me a certain degree of access to the shared experiences of gendering, sexualization, and racialization among my peers in the community roundtables I will explore next. However, I am well aware of our differences in relationship to being of settlement and settler-identity, specifically in locating our ability to successfully exist in the United States, as non-native to California. Moreover, the difference in our understanding and relationship to the United States, as a place which we are differently vulnerable to being policed, criminalized, and challenged in terms of citizenship status, must direct a methodological approach that does not simply take into account our distance to questions of native sovereignty, but the vexed position in which

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<sup>35</sup> Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham, NC: Duke University Press, 2014), 72.

immigrants (documented and undocumented) are placed in performing not only a loyalty to settler colonial relations to indigenous First Nations people (from outright genocide to a tolerance, to multicultural white supremacist tolerance, to coercive partnership with certain cooperative federally recognized tribes). This is to say that *ethnographic refusal* is not a term in which one can borrow and detach from its indigenous sovereign-centered; rather, it is a method of outlining a relation in which settlers of color and immigrants to the United States, too, can refuse the work of ethnography and being “known” through processes of academic knowledge production. The act of refusal is one in which decolonization cannot be understood without recentering indigenous liberation.

How then do we partake in a decolonial ethnography as ethnographers who are not native to the land they are occupying? This work is of particular importance even for those who are not direct descendent of the original settlers, or those who directly (but perhaps indirectly) benefit from settler colonial white supremacy. Those who have been used to occupy a third space in the comparative racial logic of white supremacy still participate in systems that prescribe the necessity of indigenous genocide, the inevitability of chattel slavery, and the logic of racial surplus labor and competition. Immigrants are thus situated in a relation to the United States as a means to both obfuscate and naturalize the genocidal founding edifice of the US nation-state. Thus, for those who seek to commit to a process of “decoloniality” in ethnography and community-centered social justice research, the work of distinguishing the field from one’s community, however varied or disparate, is to know that there is no static or stable field,

and that the field is a stream in which what is reflected back is already shifted and sifted from the movement of these bodies of water and politics.

In “Activist Research Vs. Cultural Critique,” Charles Hale, invoking the provocative work and scholarly interventions of Anna Tsing, challenges us to consider the dueling and sometimes utterly contentious demands of activist research but does not seek to shift new social movements through cultural critique. Hale states:

an approach to research and writing in which political alignment is manifested through the content of the knowledge produced, not through the relationship established with an organized group of people in struggle. Cultural critique embodies familiar progressive desires to champion subaltern peoples and to deconstruct the powerful; yet it neither proposes nor requires substantive transformation in conventional research methods to achieve these goals.<sup>36</sup>

For those of us who found our way to the academy through alliances and training through social justice organizing, particularly queer radical women of color feminist spaces, the question of relationship, kinship, and camaraderie were never truly up for debate. Thus, the cultural and knowledge production that is made possible through institutional scholarship and research demands the imperative of change through the university. Activism through research is therefore implied. Moreover, the question of identity and subaltern becomes deeply troubled when one is not necessarily in the position of being an outsider—that is, when that shared identity is construed to erase important distinctions such as degrees of formal education, class, and access to institutional support. As a result, conventional methods, in the hands of those already misunderstood as the proper practitioner, has already been queer-ed, or trans-formed. In describing activist-

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<sup>36</sup> Charles R. Hale, “Activist Research v. Cultural Critique: Indigenous Land Rights and the Contradictions of Politically Engaged Anthropology,” *Cultural Anthropology* 21, no. 1 (2006): 107-108.

scholarship, Hale continues, “Rather, activist research methods stand as one option among many, but they are especially appropriate to employ when an organized group in struggle is intensely concerned with the analytical question at hand and when the very conditions of their struggle involve a challenge to the existing analytic paradigms.”<sup>37</sup> How then does the analytic paradigms of data and ethnography both fall prey to similar entrapments of failing to account for violence and its surplus, and similarly survival and its excess? As a way of interrogating what we come to term as “violence,” particularly the proximity of the measure of violence through numerical summations or a mass quantity, questions which surround what literally counts, in bodies, for instance, like critical transnational studies of genocide, how might a QTBIPOC approach to deciphering the purpose and place of crimes information accumulation on violence or in the name of violent crime prevention (or otherwise preservation and ablation of the state’s original genocidal sins) deauthorize the very genres of data and ethnography proper? Hate crime reporting seeks to offer an annual prognosis and summation on patterns of interpersonal criminalizable violence, whether through uniform crime data, metadata, or biometrics. The players then, the *done to-victims* and *the doers-perpetrators*, when made categorically visible, are meant to offer us a codified summary of which linear-identity groups are, more or less, by year, targeted and investigated/prosecuted. How have such quantified narrations and interventions to interpersonal violence, through policy, reporting, and legislation, become both logically and culturally disconnected from questions and relations to structural violence? Moreover, how does the aggregation,

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<sup>37</sup> Ibid., 108.

collection, and reporting of hate crimes data become representative of a nationalist project of democratizing data, one in which minoritized constituents can seek repair and justice best through the state? How then do such measures of state anti-violence reinforce settler logics of “hateful criminals” versus “innocent rescuable other,” and likewise the naturalized benevolence of the nation-state—the very state in which material and historical conditions that ensured the continuance of chattal-slavery and genocide were considered necessity and foundationally instructive to the first legal institutions in the United States (who counts and who does not).

Having spent eight years in New York, and now nearly the same in Los Angeles, my connections to bi-coastal QTBIPOC community have a long history mixed with direct experiences in the ever-changing field of social justice and anti-violence movement(s). Whether through collective/organizational relationships or intimate friendships, many of us who center transformative justice and QTBIPOC organizing, in whatever capacity we could muster up, have both felt and witnessed the heaviness and heavy-lifting of practicing an ambitious reflexive politic of “led for and by” (community). In fact, “for and by” might too easily assume a fixed community and thus shared terms of agreement in moving forward. To both work inside and alongside a community in which you self-identify, like certain models of activist-scholarship, community-based research and ethnography often mean having to contend with a multiplicity of competing demands. Demands that oftentimes feel irresolvable.

Whether as a participant or student of the movement, on the ground queer/trans anti-violence community work of fundraising, grant writing, member-based organizing,

safety team meetings, direct action strategizing, developing campaigns, or practicing community accountability is as dynamic as it is filled with critical contentious differences, conflicts and contradictions. As someone who has had access to higher education and obtained multiple graduate degrees, and whose configuration of race and gender often registers as an emasculation rather than being interpolated as social threat, my position in QTBIPOC community is very different than someone who faces targeted racialized/gendered/ableist and poverty-based violence on a daily basis. Yet, the work of the acronym QTBIPOC requires the same reflexive work of critical intersectional praxis as the now colloquial and institutionalized, as Dean Spade describes, “LGB-fake-T.” The T, however in this political era, although still under constant attack, is no longer culturally misrecognized (although still pathologized); rather, like the L & G, the T, now is best protectable when aspiring to heteronormativity and inclusion into the state body.

Many of us in academia, direct social service agencies, or anti-violence nonprofits, did not study and or receive anti-violence or violence prevention training via formal institutions. Rather, it continues to be the collective knowledge and experience of practicing life-saving harm reduction through addressing queer intimate partner relationships, as well as street-based to structural violence, which is the work that continues because it has to. To be trained in community accountability means to figure out ways to support mental health crises, secure emergency housing, create exits strategies in abusive partnerships, build childcare teams when young dependents are involved, and to generally locate any and all possible alternatives that do not assume law enforcement intervention as the default. Law enforcement/police too often remain first

responders to any issue of violence. Those who are already targeted as a perceived and likely “violent,” where the disclosure of status (whether as on parole/probation, undocumented, or perceived criminal, etc.) immediately recondition any existing narratives of perpetrator/violent criminal. In implementing transformative justice practices, although not always producing clear successful goals that match the output of emotional/collective labor, it is important to hold the process of alternative interventions and accountability for what it is—a process that seeks to center survivorship, healing, and some kind of transformation that do not rely on restitution via penalty. Nevertheless, such efforts aiming at harm reduction do not foreclose the necessity of state interventions in total, such as in responding to immediate needs of legal documentation, restraining orders, or accessing basic social services.

*Polyvocality, Chorus, Ensamblage*

Such tensions between reform and abolishment, or even harm-reduction and faith in the criminal justice system to “do its job,” continues to entrap community members of those historically marginalized and targeted populations. The false dichotomy of “for and/or against”—that is, the push to improve the conditions of the criminal justice system versus the complete refusal or apathy towards the system due to impracticality—leaves those who might have complex or even unregistered dissonance of coercive options in a more vulnerable place. The position of often either being over-determined by legible legal categories or facing various forms of coopted claims to that which exceeds legal legibility, has provoked a jumble of community-based responses to issues of justice,



injustice, liberation, abolition and reform. The necessity of polyvocality or polyphonic ethnography is not only a methodological approach, but that which earnestly struggles to a choral affect that registers multiple processes, means, and potential ends. Polyvocality is traditionally used in the study of literature to describe a multiplicity of voices, either in narration or in perspectives from characters, or, in anthropology, as a means to use different voices from the field in order to allow readers to hear directly from participants in the research. The undergirding logic here is that such diversity of voices allows for a distinct multiplicity of perspectives, ones that in themselves cohere to some form of closed circuit per participant. The following review of the roundtables offers a snippet into the various ways in which, under carceral time, logic, and systems of law, we cannot be coherent in our understandings of justice and liberation; we can only exist in sometimes troubling contradictions of both needing to improve and reform systems that otherwise are killing, slowly and/or via execution, those who we hold dearest to us.

I began this research as a community archival project of QTBIPOC methods and strategies of community accountability and transformative justice, particularly alongside local organizations whose politics exceeded the namesake of their work—such as Dignity Power Now (DPN), or formerly C2ESV in LA Jails—a black/brown and formerly incarcerated led organization. Beyond this enunciated guiding principle of representational politics and power, the majority of DPN staff and leaders were also queer and or gender nonconforming and trans\* identified. The second organization, Gender Justice LA (GJLA), was formerly known as FTM Alliance, a support group for primarily white transgender men of educational and class privilege. After fifteen years,

the organization transformed their mission, vision, and political practice, now becoming a QTPoC centered campaign-focused organization that understands racial, gender, and disability justice as inextricably bound together.

In the case of GJLA's transformation, its challenges of maintaining a 501c3 status while straddling the conflicts and contradictions of both needing funding to sustain its status and staff and building organizational member-led power, is an all too common anecdote in QTBIPOC or even intersectional LGBTQ truly grassroots (not astroturf) organizing. In an attempt to shift the GJLA working board of directors to be primarily all trans and GNC people of color, I served as a board member from approximately 2013-2015. Prior to that, I was involved as a member, facilitator and stakeholder in processes of queer/trans community accountability. For many years, GJLA was the only trans-of-color-centered nonprofit 501c3 multi-issue social justice organizing space in Los Angeles. There were tensions surrounding the issues of abolition, anti-blackness, and participation of trans femme/women of color leadership. My involvement as a working board member, a trans person of color yet someone with educational/class privilege straddling between the university and activism, highlighted the ways in which tensions in community became enclosed on issues of anti-intellectualism, theory, accessibility and education. That is, the assumption that if one were to discuss racial capitalism or trans misogyny, such language would willfully exclude those unfamiliar with such terms or concepts. The indictment of being "overly intellectual" however often came from those who had themselves had degrees from higher-learning institutions, seeking to protect and speak for the "subaltern." Those who used such terms often were not, for instance, like

myself, in the academy, but activists who wrote zines, poets, cultural workers ,and writers who did not cower away from difficult theoretical questions.

Suddenly, in mid- to late-2014, over the span of only five months, Los Angeles QTBIPOC communities experienced a string of devastating losses, all three were trans women of color: Zoraida Reyes, a well admired Latinx activist in the immigrant LGBTQ community, Aniya Parker, a black femme elder in community who also went by Asia, and Deshawnda Tata Sanchez, an aspiring fashion designer and a student at the LGBT center youth programs. These three sudden, premature, and violent deaths both brought families of origin and queer community together, and too surfaced political tensions and differences along the lines of calling for police to “do their job.”

However cooperative the LAPD promotes itself to be, in sensitivity training and recruitment to handling issues with/within trans communities, the history and clear present danger that trans women of color face—ranging from being profiled, harassed, propositioned, and/or sexually assaulted for walking and living while trans and femme—continues to make them a target of state violence, thus extending their precarious survival. Questions concerning how to address anti-trans violence and murder were not simply a distant national/transnational issue, but one that struck home and highlighted the multiple and differing relations of trust in collaborating with law enforcement and state institutions locally. The re-activation of the research to center conflicts around the role of anti-trans violence and hate crimes translated into a need to formalize a space to sit, talk, grieve, and slow down. As much as it too was a mode of actionable research, the ethnography was a vehicle for both organizing and resisting being organized by the

powers that may be. From family of origin to queer family and community, each of the deaths of Zoraida, Aniya, and Deshwada had resulted in a call for their cases to be investigated as an anti-transgender hate crime. The demands made ranged from having their particular cases be taken more seriously to demanding legislation officially include transgender as a distinct legal category, beyond gender itself, which was already a juridical protected class under hate crime legislation (California being first to include sexuality and gender). However, what was also undeniably clear was that such a call “for justice” through a hate crime investigation both functioned to be retributive/penalizing yet not reducible to simply the desire to prosecute a violent crime. On the other hand, community also used hate crime as a colloquial shorthand to describing the largely neglected and unregistered impact of trans violence. So what gives? Law, order, crime data and prevention—and the claims these state strategies make in containing or even mitigating collective suffering—seek to tell some kind of truth or objective snapshot of violence elsewhere, anywhere, but at the hands of the state or its law enforcers. Even three decades later from the institutionalization of hate crimes, the voices of survivors and those at the intersections of multiple identities and vulnerabilities continue to be neglected if not obliterated entirely. Currently, some reform of what I term “carceral data” has perhaps allowed the appearance of new categories and expressions of crime and/or violence in annual reporting. However, in a political climate in which national strategies to address anti-LGBTQ violence have been dictated by data and policy, what are the ways we might disrupt the function of data as truth and death as statistic?

These tensions, interpretations, and interpolation into hate crimes—particularly for communities whose existence, survival, pain, grief, and death challenge a politics of inclusion—exceed what can be represented by violent crime data. Yet, the horizon in which hate crime reporting continues to be reformed, particularly by Los Angeles County indicates a pinkwashed trajectory of, to borrow from Jin Haritoworn, murderous inclusion. Throughout history, asking the police to do their jobs has never remained an exacting rubric of procedures, policies, and practices. Particularly for historically and once lawfully repressed communities, police support remains a risk. The 2001 “Reporting Hate Crime -The California Attorney General’s Civil Rights Commission on Hate Crimes- Final” report states:

The absence of reports of hate crimes perpetrated by law enforcement officers has diminished the credibility of law enforcement efforts to prevent and respond to hate crimes in some communities. People of color and advocates for gay, lesbian, bisexual and transgendered people in many of the local community forums held by the Commission indicated they did not believe law enforcement was concerned about hate crimes.<sup>38</sup>

Such forums were intended to reform the quality of hate crimes reporting and procedures, not necessarily concerned about preventative measures or questions of law enforcement bias violence itself. Eric Stanley describes documents that offer hate crime statistics on anti-queer violence as “reproducing the same kinds of rhetorical loss along with the actual loss of people that cannot be counted.”<sup>39</sup>

However, the community pushed back, and the report further notes:

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<sup>38</sup> Bill Lockyer, “Reporting Hate Crime: The California Attorney General’s Civil Rights Commission on Hate Crimes, Final Report” (CA, 2001), 18-19.

<sup>39</sup> Eric Stanley, “Near Life, Queer Death: Overkill and Ontological Capture,” *Social Text* 107, Vol. 29, no. 2 (2011): 6.

They (LGBTQ community) argued that if law enforcement cared about preventing and responding to hate crimes they would do a better job of addressing hate crimes committed by law enforcement officers themselves. A number of people complained they had no viable way to report hate incidents and hate crimes perpetrated by law enforcement officers. All law enforcement agencies have procedures for making complaints against law enforcement officers. However, there are no special provisions for filing a complaint against an officer for committing a hate crime. Several persons also indicated that members of their communities fear retaliation if they use the existing complaint system to report a hate incident or hate crime perpetrated by a law enforcement officer.<sup>40</sup>

Much like what constitutes a hate crime federally and at the county level, when numerical evidence en masse suggests a potential uptick in state-generated resources, such diagnoses remains dependent on data and statistical evidence that shows either a growth of or the successful prevention of crime from a year to year basis (such numerical evidence unfortunately creates a cycle of self-preservation of law enforcement agencies and the bodies they consider cooperative). Likewise, for anti-violence coalitions and organizations, like National Coalition of Antiviolence Programs (NCAVP), which depend on both state-produced crime data as much as reporting anti-violence organizations, are forced to collude with law enforcement in order to create a space in which they too can reform what “counts” such as even the very existence of law enforcement violence. Whether directly from Los Angeles County or NCAVP, reformative methods of inclusion and with full disclosures of the disappearance and hauntings of data via underreporting and being under-resourced, such crime and violence data still insists on a truth-value in its empirical and enumeration. Both in a comparative logic that measures and speculates risk and management of said risk, the production data

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<sup>40</sup> Lockyer, 18-19.

on violence is undergirded by a telos of categorical uniformity, and in politics of progressiveness, seeks to improve methods towards expanding the inclusionary categories and trainings of collecting and reporting data.

LGBTQ lawyer and co-author of *Queer (In) Justice* Andrea Ritchie notes that nine out of ten trans\* women of color (TWOc) had suffered some form of police brutality in their life.<sup>41</sup> A 2013 report by the National Coalition of Anti-violence Programs (NCAVP) states: “transgender women were 4 times more likely to experience police violence compared to overall survivors, and 6 times as likely to experience physical violence when interacting with the police compared to overall survivors.”<sup>42</sup> In 2014, the same annual report states that trans women are “5.8 times more likely to experience any police violence” and “6.1 times more likely to experience physical police violence.”<sup>43</sup> Twenty years prior, a nationwide survey of hate violence against LGBT people (1985-1998) similarly notes that 40% of transgender people had experienced “police-initiated violence.”<sup>44</sup> Why, then, would any transgender person, particularly TWOc reach out to the LAPD to ensure their safety when having been met with brutality? Whether they are assumed as “criminal” (with or without a record), or lacking correctly gendered or valid

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<sup>41</sup> Andrea J. Ritchie, “Ending Gender Violence Beyond Carceral Feminisms” (plenary lecture, the Color of Violence Conference, Chicago, IL, March 26, 2015).

<sup>42</sup> “A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2013” (Anti-Violence Project, New York, NY, 2014), accessed May 5, 2015, [http://avp.org/wp-content/uploads/2017/04/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/wp-content/uploads/2017/04/2013_ncavp_hvreport_final.pdf).

<sup>43</sup> “A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2014” (Anti-Violence Project, New York, NY, 2015), accessed July 29, 2015, [http://avp.org/wp-content/uploads/20172/04/2014\\_HV\\_Report-Final.pdf](http://avp.org/wp-content/uploads/20172/04/2014_HV_Report-Final.pdf).

<sup>44</sup> “Anti-Lesbian, Gay, Bisexual and Transgender Violence in 1998: A Report of the National Coalition of Anti-Violence Programs, Fifth Edition” (National Coalition of Anti-Violence Programs, New York, NY, 1999), accessed May 25, 2017, [http://ncavp.org/common/document\\_files/Reports/1998ncavpbiasrpt.pdf](http://ncavp.org/common/document_files/Reports/1998ncavpbiasrpt.pdf). The report unfortunately does not calculate the total murders of transgender women of color.

documentation, or perceived as sex worker, many transgender women and LGBT people of color do not consider calling upon the police to be a viable option.<sup>45</sup> This data produced from NCAVP statistically details the violence and lack of safety experienced by TWoC interacting with law enforcement, a varied story from state to federal uniform crime reporting that, inversely, collects data on crimes against law enforcement. This is no surprise as such a data project would undoubtedly delegitimize the expansion and rationale for peace officers—a self-indictment.

The problem remains: even if the data becomes garners the performance of “Accuracy” through softening the extent of underreporting, the data in itself continues to create a dichotomy of persons (perpetrator) to both victim and the state. How then do such deliberately distancing of violence on behalf of the state and its law enforcers create a particular calculus in which data remains a function of carceralism, or even the loop of gentler more sensitive carceral data? Moreover, even with the clear variety of even visualization and design of “data,” the inclination is that data = positivist and empirical scientific knowledge production. The visual and cultural production of data, particularly the epidemic of “hate crimes” must go beyond questions of what is missing from data or issues of underreporting due to historical distrust from targeted communities. Instead, how might understanding data as itself an illusion of inclusion, and in a perpetual state of elision, incubation and suspension, create room for other modes of accounting for survival and resistance and not simply victims of violence?

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<sup>45</sup> Transgender people of color were 2.7 times more likely to experience police violence, and 6 times more likely to experience physical violence from the police compared to white cisgender survivors.” “National Coalition of Anti-Violence Programs Report 2013.”



In 2009, after spending five years volunteering directly, however capriciously in my early and mid-twenties, with queer/trans of color New York organizations such as Audre Lorde Project, FIERCE, Sylvia Rivera Law Project, I began my community building and learning through the space of LETSGO! Liberation (LGL), a trans-led legal clinic for trans/GNC people, next door to the Silver Platter, one of the last historic gay Latino-owned bars in Los Angeles in the neighborhood of Macarthur Park. LGL became a safe haven for Trans Latinx women in particular, and LGL teamed with organizations such as Bienestar to offer HIV testing/education during nightlife events next door. Wu Tsang was central to the vision for the space of LGL next door to Silver Platter. specifically through their involvement as host and organizer of the queer dance art party and space dubbed Wildness, in which Tsang's 2011 experimental film was epiphenomenally named. While completing my MA thesis from University of California, Los Angeles, I conducted a roundtable dialogue with Wu Tsang and riKu Matsuda, Tsang a multimedia filmmaker, performance artist and activist and Matsuda, a longstanding transgender-advocate and also staff member of the Los Angeles County Human Relations Commission (Matsuda himself having to log and map anti-LGBT hate crimes as part of his county job). The roundtable explored topics of identity politics, trans\* visibility, and dis-identitarian politics. We specifically addressed the issue of being both of the ToC community, as the three of us were all East-Asian and trans\* identified and led core team members within LGL. However, the position in which we were within ToC community was worlds apart from the ToC community we projected as "needing our support"—those

being in the constant intersections of anti-trans intimate partner violence (IPV) and state violence.

Fast forward to 2013-2015, Black Lives Matter (BLM) was one of the largest local-to-national, primarily youth-led movements to address anti-black racism, particularly at the hands of law enforcement and the inability of the criminal justice system to sentence, let alone indict, the very foot soldier of its system. One of the three founders of the BLM movement, all identifying as black women, is Patrisse Cullors, a now long-term comrade and queer family. Patrisse and I began our organizing relationship in working on an LA queer of color-based collective called Open Hearts: Beautiful Struggle, from approximately 2010-2013. The collective's primary concern was to center alternative modes of multiple-intimacies of queer family, one that did not reference a white poly sex-positive-obsessive or heteronormative culture. Although not specifically centered on anti-violence, our work aimed at reducing harm in queer/trans of color communities locally. The collective provided spaces in which a community member could discuss the difficulties surrounding mental health, madness, PTSD, trauma, and general cultures in which politics of desirability often create insidious and inferred systems of value within the QPoC community. We hosted dinner conversations, held workshops in which we decentered ourselves as experts and supported the voices of everyone in the room as practitioners. By providing a space for discussions of toxic masculinities (both trans/cis, butch MoC) and the role of white supremacy in conditioning desires and responses to conflict, we viewed our approach as that of a radical harm reduction, an alternative, preemptive, compassionate approach to anti-

violence organizing and legal/policy-centered models. Alongside these responses to BLM, the slogan “TransLivesMatter” was both used and contested in the QTBIPOC community; instead, the BLM organizers and community sought to instruct a conversation in which “trans” did not necessarily index “black,” and “black” must also index “trans\*.” Within the women’s movements, LGBTQ activism, and queer/women of color spaces (most of which comprise of queer settlers of color), we grapple with questions of decoloniality. The questions of self-determination and sovereignty are not simply a catchy slogan; rather, they are perhaps a refusal to assume we have arrived because we have somehow accounted for the tribal lands we occupy or the absence of tribal/native voices in the room.

These experiences overall made clear that our community yearned for a space to decompress, discuss, and initiate rigorous dialogue concerning the impacts of violence on trans\* of color communities, particularly trans\* women of color. The question of how violence is to be dealt with has never been a simple matter of unity or a united front. Rather, as mentioned in earlier chapters, the history of how violence has been approached often gets piecemealed into either state-responses or approaches that seek to mitigate and/or provide resources outside of state intervention. However, the truth is that these two worlds indeed collide in ways that are not easily divided up into a matter of cooperation versus cooptation, and abolition versus refusal. The ways in which trans\* of color communities have become integrated into workspaces of social service provision of nonprofit advocacy do not necessarily index the extent of the growing body and polyvocal chorus of diverging politics and modes of survival.

The roundtables were made possible, first and foremost, through community relationships and trust that had been built over six years since I arrived in Los Angeles in 2009. Having organized across different spaces, events, and collectives in Los Angeles, the conversations as to what strategies were more or less readily at our disposal, particularly in confronting state-sanctioned violence, often meant contending with oppositional ideas of what justice, harm-reduction, and a more just approach could be possible. Born out of a community demand to have more open dialogic space to study and discuss the priorities of QTBIPOC anti-violence organizing in Los Angeles, in the fall of 2015 I hosted three community participatory ethnographic roundtables with thirty-five LGBTQ people of color community advocates, service providers and organizers, over half identifying as immigrant and/or undocumented. These dynamic roundtables illustrated the breadth of community voices and invaluable first-hand experiences that strongly distinguish “safety” outside of law-enforcing state agencies. The purpose of these roundtables was neither to sterilize or assume that such networks would compromise the objectivity or task at hand as a non-cross section or wide call to QTBIPOC community in Los Angeles; it was actually quite the opposite. It is in these relationships and shared camaraderie, even with contentious and critical differences in politics and personalities, that insist that auto-or community-centered ethnography will refuse objectivity or becoming generalizable knowledge through its sheer alliance to multiple unruly spaces, the streets, the workplace (and those as not always mutually exclusive), institutions in which one seeks resources, social services, healthcare, legal documentation, education, training, etc.

### ***A-Round-A-Table: Spiraling Rage, Grief and Getting Free***

In conducting an informal poll at dinner table conversations, social events, and meetings, as well as through sidewalk discussions at rallies, vigils, and actions, I learned that various people in the ToC community were interested in discussing the intersections of anti-violence community responses, hate crimes, bias-motivated violence, prison abolition, criminal-to-restorative and transformative justice. To my recollection since arriving in Los Angeles in 2009, such topics had not been openly discussed in terms of forums on a local city or countywide scale. There had however been a number of locally-organized events and gatherings in which the topic of transformative justice had been at the forefront and center, particularly by organizations such as Youth Justice Coalition, INCITE Los Angeles, Dignity Power Now, and various invite-only gatherings for transformative justice practitioners. Following the devastating killings of black and Latinx trans women in Southern California, the call for their deaths to be investigated as “hate crimes” against the transgender community pushed a distinct issue to the front lines: the solutions and entrapments of rallying for trans\* and gender-nonconforming justice and safety through state administration, or what Spade terms “administrative violence.” Administrative violence, even with the namesake of anti-violence, in turn creates, if extending from Spade, an “administrative anti-violence violence.” It means that the notion of safety is only presumed legible or knowable through the involvement, if not the full orchestration and reproductive expansion, of state power.

The first draft of the online survey included questions that would not only center ideas of transformative justice, but also simultaneously center those who situated

themselves as survivors or those directly impacted by the criminal justice system. The survey sought to make possible conversations where divergent understandings of harm-reduction, safety, and community-based solutions could exist alongside contentious community-partnerships with state entities and law enforcing agencies. The survey offered several questions to gauge the familiarity and interests of potential participants in discussing the key issues at hand. It also offered optional questions in terms of participants' identities, preferences in terms of sharing conversation with whom (with or without those who might identify as working with law enforcement), and other preferences in terms of location, size, and accommodations of the roundtable. Beyond the Internal Review Board (IRB) approval process for this research, the first survey draft was sent out to a few pre-designated trans\* and GNC community stakeholders who had constructed, programmed, or vetted similar community-based surveys. With the feedback—which included usability, navigation, adjusting response options, additional identity marker selections—the survey was then edited and finalized and sent out via a private Facebook event setting with a link to the online interactive survey. I shared the private event with nearly 75 participants, most of whom ranged from friends to community acquaintances. In total, over 40 participants completed the survey, with nearly everyone being invited to participate. After the survey closed, however, additional participants were additionally recruited through the TransLatin@ Coalition. Altogether, I conducted three separate roundtables within the span of ten days.

The goal of the roundtables varied, but most importantly the simple hope was that the roundtables could offer a space in which an exchange, dialogue, and collective space

of debriefing and organizing ideas could be possible. In other words, the announced priority of recording and archiving the conversation was intentional not only for the research project at hand, but also as a mode of marking the project with the voices of those that, for better or worse, would displace and challenge the authorship and knowledge-making practices of the project at large. Much of what I hoped that would be discussed would exceed or even attenuate any set or imagined expectations—the roundtables as a space of unknowing and possibility—both as a practice and process. Further, I prioritized the politics of horizontalism and shared authority through the strategy of collectively determining an agenda for the day, as well as sharing and agreeing upon ground rules. This was not to mitigate my involvement or imagined direction of the roundtables; rather, with clarity in communication, it was both staking a claim to the limits and possibilities of the roundtable space. In order for the roundtable space to become an organizing space, I openly brought together divergent voices in the ToC community in order support a deepening of relationships and created spaces for interpersonal and intra-organization exchange.

The first roundtable took place on October 4, 2015 at the UCLA Downtown Labor Center, an extended research department of University of California, Los Angeles, focusing on intersectional approaches to address labor rights specifically to Los Angeles and California. The Downtown Labor Center had become a gathering place for a variety of social justice organizing events since its doors opened in 2002. Of recent memory, scholar Karla Padron alongside Bamby Salcedo from Trans Latin@ Coalition had launched a critical community report surveying urgent issues faced by trans\* Latina

women in the United States.<sup>46</sup> Similarly, the downtown center was the venue for the monthly OUTspoken, LGBTQIA youth-centered open mic night. The Labor Center was often a free or sliding scale space available to community organizations, which aligned with the intersectional social justice mission of the center.

As the participants arrived on this Sunday afternoon, I ushered them into a conference room on the first floor. They were greeted with a table of refreshments. Not everyone knew who else would be arriving at the roundtable, but as people trickled in, connections that I did not even anticipate were made. We began with introductions, clarity around the procedural matters of consent and recording, and the agenda for the day. I reminded participants that they could leave at any time and still collect their stipends of \$75 each, which would be a modest reimbursement for their travels, time, and shared thoughts. Similarly, it was discussed that the roundtable would be recorded and transcribed, and with the transcription, any community stakeholder would have the opportunity to return to the script to mark, edit, or redact their words. Lastly, stakeholders had the option of remaining anonymous, using a pseudonym or their chosen name for the purposes of publication. During the description of these tasks, there was a general sense of agreement and nonchalance. In academia and likewise the history of the IRB, the historical impact of research on state-targeted communities means that one must approach with caution, clarity, and documented information as to what exchanges or interactions would be used for the purposes of published research.

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<sup>46</sup> Bamby Salcedo and Karla Padron, “TransVisible: Transgender Latina Immigrants in U.S. Society” (public report, TransLatin@ Coalition, Los Angeles, CA, 2013).



The shared goal for the day was to explore a collective understanding of transformative justice and the limits and underlying problems of hate crimes, while reviewing together various modes of reformatory practices that have become, for better or worse, a necessity in surviving the criminal justice system. Additionally, the goal was to center and analyze the ways in which transformative justice, including trans and queer of color organizing in Los Angeles, has been stifled and challenged by partnerships directly with local law enforcement and/or service agencies like the Los Angeles Gay and Lesbian Center. Again, the goals of the roundtables were not a fixed set of tasks, objectives, or unshakable critiques. Rather, the very provision of the space was one of process, exploration, and unknowingness was a mode of community (dis)organizing, one in which the end goal did not have to be a specific deliverable task that would benefit any legible institution at large. This end goal of community (dis)organizing, or building with one another through ad hoc decisions, allowed for polyvocal dialectical thinking over the course of the shared time, neither a present, past, or normative future. In conversation with Muñoz's *Cruising Utopia*, the roundtables, although somehow both willfully and politically pragmatic, also sought to be energized by a sense of "collective political becoming" or to "...think about our lives and times differently, to look beyond a narrow version of the here and now on which so many around us who are bent on the normative count."<sup>47</sup> As someone being trained in the now canonized and institutionalized, but historically unapologetic political fields of ethnic studies and queer studies, the work here

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<sup>47</sup> José Esteban Muñoz, *Cruising Utopia: The Then and There of Queer Futurity* (New York, NY: New York University Press, 2009), 189.

was to bridge the too-often presupposed rift between studies of race and studies of queerness (gender, sexuality, embodiment, and politics). Thus, the goal of centering transformative justice with a room full of queer, trans\*, and gender-nonconforming community members from various life experiences and positions of (dis)empowerment meant that assumptions of individuation and individual rights-based organizing and agendas were to be pushed, broken open, and intersected within the space of the roundtables. Cathy Cohen writes,

That analysis [refusing to divorce street-based on interpersonal violence from systemic violence] directly challenges the liberal, rights-based agenda that dominates LGBTQ politics today. These activists refused to collaborate on a project that addresses violence through a framework in which the unit of analysis is individuals whose behaviors is labeled as bullying or a hate crime. Doing so ignores the need for a system-level response to the collective and systemic violence against marginalized communities, whether they are black and/or queer.<sup>48</sup>

To support the flow of conversation, I provided each roundtable stakeholder a packet of documents that laid out differing definitions and information on national anti-LGBTQ violence policy and data, restorative and transformative justice and Los Angeles County-specific language and reporting on annual hate crimes. The discussion began with a question considering the wide and expansive reach of the criminal justice system. Stakeholders responded with a range of players and institutions from Los Angeles Police, Sheriff and Fire Departments (LAPD, LASD, LAFD), Homeland Security, FBI, ICE, CIA, TSA, California Department of Corrections and Rehabilitation, California Highway Patrol, Child Protective Services, Department of Mental Health, Border Patrol, the courts,

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<sup>48</sup> Cathy Cohen, "Death and Rebirth of a Movement: Queering Critical Ethnic Studies," *Social Justice: A Journal of Crime Conflict and World Order* 37, no. 4 (2012): 128.

prisons systems staff, and even mandated reporters. The conversation then moved towards a discussion of the meaning of transformative justice, and how it intersects with such criminal punishment system agents and agencies.

*Un-Becoming Statistic: Ethnographic Embodied Resistance*

What follows is a dialogue interspersed with ethnographic reflections on the responses by community stakeholders in ruminating on vexing topics from abolition, transformative justice, criminal punishment system, hate crimes, crime data and the possibility of community-based solutions to violence:

**Ezak:** I think abolishing prisons. Not working within that system, because it's already a fucked up system. Dismantling it and creating something different. The example organization I'm thinking of is Critical Resistance, or people who do things around prison abolition work, I guess.

**Loba:** Direct actions against somebody that's sexually assaulted, getting friends together for a direct action...?

**Edxie:** I guess an organization I'm aware of that does a lot of transformative justice work or has had transformative justice analysis is INCITE. I know that people who are prison abolitionists have created a lot of really good analysis around how reform is actually legitimizing the criminal justice system, as well as reform is how the prison industrial complex was actually created. Reform is not something that is a focus, because it just serves to feed the beast.

**Loba:** Would you say that...for example, I don't know, if it's a crime to have undocumented people working [for] you but you actually decided to [do it anyway]? Would that be considered part of transformative justice? People [who] do that work, would it still be considered a crime, but they still do it because why not? I guess that could be direct action against the [...]  
Because so much of the stuff that is considered a crime is necessary—like abortion access, for example. I'm thinking if that could also be part of a transformative justice action. To give abortion access by providing services or drugs that are supposed to be illegal. I'm not sure if it would fit in it but it's technically a crime, but you're still doing it because it's necessary.

**Edxie:** I think that's qualified. I think that definitely counts as transformative justice.

**Ren-yo:** I think it depends on yeah... how it gets practiced. There isn't a body that oversees what is or isn't TJ, (someone agrees) but people will argue when it comes down to priorities and strategies, whether you're actually expanding the criminal justice system, or you're trying to chip away at it.

Ezak, a longtime staff member and director of community organizing for Gender Justice LA, a friend and comrade whom I served on the GJLA working board of directors alongside for over a year. Ezak and I have shared community space since I arrived in Los Angeles when meeting at a LETSGO! Liberation (LGL) event in late 2009. Ezak was born and raised in Los Angeles and identifies as a trans-masculine Latinx/Native/Hopi. One of my first impressions of Ezak was his resolute and protective spirit over all things Los Angeles, particularly the intersections of gentrification, racial capitalism, and trans/gender-nonconforming survival. For Ezak, in his utterance of "Dismantling it and creating something different," transformative justice indexes the spirit of that which seeks to not only destroy and undo that which is toxically unjust, but additionally must offer something else, something different and not the same thing by a different name or skin. Ezak further uses an example of transformative justice as linked to the practice and philosophy of abolition and abolitionist organizations like Critical Resistance. With a national office based in the Oakland, CA, Critical Resistance has developed chapters throughout most major cities in the United States. The active chapter in Los Angeles was established in 1997-1998 through a large gathering of activists and organizers who sought to challenge the expansion and insidious nature of the ever-growing prison industrial

complex (PIC), particularly “the idea that imprisonment and policing are a solution for social, political, and economic problems.”<sup>49</sup>

Loba’s response of, “Direct actions against somebody that’s sexually assaulted, getting friends together for a direct action...” tugs on the connection between direct action and processes of community accountability as linked to transformative justice. Loba, a queer Latinx community herbalist, healer, cultural worker, and seed-keeper, calls on the history of responding to and addressing sexual violence through community-directed and survivor-centered processes, which has found a genealogical home in the practice/processes of what has been termed community accountability.

Edxie Betts is a zine-maker, cultural worker, writer, activist and core organizer with Los Angeles Queer Resistance, identifying as Black/Native/Blackfoot/Pilapinx. She cites the longstanding work of INCITE that both centers prison abolition while simultaneously offering critical analysis of the pitfalls of reform, that the criminal justice and prison system itself has and always stood as a reformist effort. Edxie writes a blog entitled “Cats in Revolt,” which opens with large banner featuring a massive tabby orange feline, whose speed kicks up a smoke of dirt, chasing a frightened white masculine police officer. INCITE National is self-described as “a nation-wide network of radical feminists of color working to end violence against women, gender non-conforming, and trans people of color, and our communities. We support each other through direct action, critical dialogue, and grassroots organizing.”<sup>50</sup>

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<sup>49</sup> “History,” Critical Resistance, accessed March 27, 2017, <http://criticalresistance.org/about/history>.

<sup>50</sup> INCITE!, accessed April 25, 2017, <http://www.incite-national.org>.

Loba follows up to ask about the very condition of crime and criminality, particularly through the support of undocumented workers and/or access to healthcare concerning choice reproduction via abortion access. Her inquiry locates the model of transformative justice beyond shared principles of anti-violence and abolition among US-based organizations. One could understand this inquiry as tending to the very multiply-evocative prefix of *trans*. The “trans” in transformative justice is necessarily indicative of and critically driven by a transnational lens—that is, to undo or break open the US criminal justice system requires a transnational focus on colonial, militarized, and imperial borders and war. She summarizes the need for survival-based economies and trade that are deemed a crime by the criminal punishment system: “Because so much of the stuff that is considered a crime is necessary.” Edxie responds affirmatively to Loba, agreeing that such models of direct support and action are indeed moments of transformative justice. Loba’s statement is presented as a question posed to myself as moderator in particular, as she is concerned with whether or not her suggestion would be considered outside a rubric of transformative justice. I respond, in hopes of disinvesting in my authority, that there is nobody that oversee what is and is not properly transformative justice. In fact, these are the very contentions of the growing field of practitioners and students of transformative justice.

The discussion soon moves on to look more directly at models and representations of reform in QToC, or more broadly, LGBTQ bias-motivated violence. The roundtable now focuses on printed documents concerning NCAVP’s annual report, which describes issues of underreporting. All participants elaborate on the need to reform intake practices

to ensure that all violence, as interpreted as hate crimes or bias-motivated crimes, need to be taken seriously and documented properly. This is also important when interacting with law enforcement, who might be unresponsive due to outright negligence, discrimination, or ignorance of issues faced by any targeted community.

**Alexander F:** Sorry, I have a question. According to this, and I've read this report. I read the entire 121-page report. Even there, they say that the numbers are hard to count because of these different things. Is law enforcement and the criminal justice system, are they saying, "It's not important enough for us to keep track of it so we'll half-ass do it and it doesn't matter?" Then on the same team, me personally, as far as this first reason for hate crimes not being reported to law enforcement, I live in a situation where if I call the police for any reason, that's retaliation for just allowing them in the complex on my behalf. You see what I'm saying? So I get it, a lot of these numbers, even in the NCAVP, I get it that a lot of these numbers are not being counted. How do we go about trying to get clearer numbers? See what I'm saying? That's a task. How do we even go about fixing that problem, to get clearer numbers, to get a better idea of what's going on? Because literally, if you look in a fishbowl and say, "Okay, we can say maybe there's three purple fish in there, maybe, but they're moving around so I can't really tell." How do we get better numbers? How do we get a clearer picture of what's really going on? Because I'm sure these numbers are way further off the charts than what we're looking at. [...] I was curious about these numbers because if the folks that we're reporting the numbers to don't want to report the numbers to the next piece, in order for the funding to come down, because literally, if it's got to come from the federal piece, then it needs to get through the state and local pieces first. If it's not getting through the local pieces or it's not getting to the state, then there's no way for it to get to the federal and say, "Hey, look. We need funding. There's a situation going on down here. You need to get this fixed." The only way to get that fixed is to get training to happen and get these organizations funded to deliver these services and different things that folks need in order to get past these situations. But the numbers are not getting where they need to get, then there's no funding that's coming down the pipeline. How do we get these numbers to get realistic, get a better scope of what we're looking at?

Alexander F is suspect of and yet determined in the investigation regarding the failure of numeral accuracy and data reported. As a black trans-masculine program director and social service provider for homeless services and programs in Los Angeles,

Alexander F's intimate knowledge is tied to knowing why and how numbers literally translate to assessing and receiving "need-based" funding from both from private grants and public funding from the county, state, and federal level. Alexander F critically defies the assumption of police safety as safety, noting that even in living in an apartment where the presence of police is seen as community and neighborhood endangerment, distrust of law enforcement has generated a neighborhood code of conduct, where, even in desperation, to seek police intervention is to risk some form of potential retaliation.

**Loba:** Is it even possible? That's when community-based responses are so important, because you're able to respond to a situation knowing exactly what's happening and the police would just see this as numbers. Then unfortunately, we need the numbers to create enough security. It's one of those things that it's never going to work out [laughs].

Loba responds in a form of both challenge and agreement, that the accuracy of such data, however underreported, inaccurate, or misleading, is a cause of a constant form of dependency on the cooperation of state agencies. It is the conundrum that social service organizations need such numbers to even advocate for community-led responses to violence, whether directly or indirectly in cooperation with state agencies and law enforcement.

**Loba:** Right. It's hard to do because if law enforcement is like, "Well, it doesn't really matter to us," and they take all these numbers, or they don't even qualify the reporting as a hate crime. Now even if people are reporting, we get more folks to say, "Hey, what's going on?" We get more folks to say, "Hey, this is not right." We get more folks to speak up and get our numbers in the door. But now you have the law enforcement that don't even want to file them, that don't even want to create those numbers on paper for us. Because we can report all day, but if it stops with law enforcement and it doesn't go any further, how do we get that to perpetuate?



Loba adds to the frustration of being caught between needing law enforcement to be accountable to a duty of reporting hate crimes, and the ‘something real’ of feeling and garnering material support—particularly when there is mass mobilizing surrounding unregistered or less publicized injustices. She points to “numbers in the door,” which can be interpreted as the door of inclusion into even being counted in official legal data like hate crimes reporting. The issue for Loba is perhaps the fact that there is a reason to be registered and made visible en masse when violence is perpetuated on a particular targeted community. However, if the end goal is only to make a more inclusive data or reform intake practices on behalf of police officer’s that “doesn’t go any further,” then what are we left with?

**Edxie:** I’m wondering if the numbers are the priority or if they’re diminishing the necessity for these programs. We were talking about the numbers that it takes to report particular acts of violence or hate crimes and how often times these nonprofits accumulate these numbers and then... I don’t think there’s anything necessarily wrong with the resources the nonprofits provide so much as when your work becomes institutionalized, or it’s the non-profitization of your work. The example that you gave, people who work at a woman’s center for example are taking all these numbers, taking all these phone calls without actually really caring whether or not these women are getting help or resources. So I think that’s an example of the non-profitization of work. So I would say that I don’t know that even if we got a clear example of realistic real numbers that are actually... We’re never going to get the full reporting because of the list of reasons, immigration status, [or] fear of hatred coming [from] the state. But even if we did have that information, what are we going to do? If we know that the police don’t take hate crimes as priority are we just going to... and the police are part of the problem as well. The state is also perpetuating a lot of violence or a lot of hate crimes, whatever you want to call it. So I think that if we’re using these lists of different justice systems, I think transformative justice is a good idea. When I think about abolition, I think about necessity to create future worlds that are disposing of really oppressive worlds. The police have to organize violently in order to exist, so I feel like it’s like a pipe dream for a lot of people, but I feel like there’s a lot of people working to de-legitimize the necessity of the police, and trying to find different ways we can handle these issues ourselves.

Edxie summarizes the ways in which social services, community organizations, and community members who are under constant scrutiny by the state are forced to operate within a setting. The self-revolving, self-fulfilling nature of violence via numbers through direct services further renders the state outside critical inspection, turning it into a governing body that perpetuates and further institutionalizes various forms of violence. She states, “The state is also perpetuating a lot of violence or a lot of hate crimes, whatever you want to call it...”

**Alexander F:** What I do know is this, and I’m only going to use this as an example, working with the homeless shelters and working as management director of different homeless programs that I’ve been with, what I do know is that in order to get specific funding for those programs, we have to prove there’s a need. And the only way to prove there’s a need is these numbers. So coming from that aspect, I see the numbers as being something that’s necessary to prove that there’s a need in order to get the funding. I agree with you, we’re not getting a complete scope of what these numbers look like. But let’s get something that’s more realistic and closer to what’s really going on.

Alexander F’s retort brings our attention to a very attenuate yet prickly tension between transformative justice and abolitionist ideology. For those in positions of advocacy and service provision, numbers do mean something for communities directly impacted by state violence, such as making possible basic survival resources. On the other hand, the intentions of transformative justice have yet to materialize such promises of tangible means of support. This does not mean there could not be a transformative justice intervention as to how one can operate from an institutional standpoint of mandated state reporting. Nevertheless, the “proof” and “evidence” of need too often means an

undivided attention, effort, and allegiance to fulfilling and matching coercive requirements for reporting to receive whatever limited and, in a 2017 Trump era moment, scarce federal funding.

**Alexander F:** Let's get a really good snapshot. Because a lot of these numbers are really unclear. And a lot of things are being counted differently. For instance, I have personal experience. I was pulled over by the police and they said that I looked to be someone who committed a crime. I favored a suspect. And that's why I was being pulled over. But once I was pulled over, because now being pulled over was being profiled. So now we're looking at a racial hate crime. And once I was pulled over and they started patting me down they realized I was trans. Because I haven't had top surgery and they're feeling me down and they feel binder, they feel a packer, and they're going, "What is this? What is that?" And I said, "Look, I'm transgender." And they're asking me all kinds of stupid questions and I'm getting bashed and all of this, now it's turning to a transgender hate crime. See what I'm saying? How would that be counted? Because I was initially pulled over based on racial profiling. Now as we progress through the situation that has become a transgender hate crime. So how exactly would that be counted? And so that's why a lot of these numbers may be unclear. Because these situations may be happening in other scenarios, so how are they counting these scenarios? And how are these numbers coming across?

In recounting a traumatic event in which he was profiled as a black trans-masculine body, Alexander F takes issue with how and why law enforcement has, without impunity, the ability to harass, violate, grope, and humiliate someone like himself. His personhood was twice removed: first being racially profiled and then being bashed for his gender-nonconformity and transgender body, a body that literally became an object of skepticism, thus warranted scrutiny. Alexander F asks repeatedly, how does such an instance become documented? How could this count as a transgender hate crime? The catch here is that hate crimes do the very work of compartmentalizing people's identities to the point of legal dismemberment. Alexander F might have understood the course in which anti-black racial profiling seemed part and parcel with the training and

expectations of LAPD, but in regards to one's gender identity, particularly as a transgender person, it was considered disreputable to the point of what he calls "bashing." Alexander F wants to know that such an instance would not simply go undocumented, without some sort of accumulative effect towards change.

I explain to Alexander F that unfortunately, and very much by design, Los Angeles County, like all statewide and federal agencies, does not account for bias-motivated violence on behalf of law enforcement. Police violence is not recorded as hate crimes, because such acts are committed by state agents. This is a general issue some people are not aware of. I explain that this is why organizations such as the National Coalition for Anti-Violence Programs have sought to build picture of such incidents nationwide. I explain that NCAVP is the only coalitional organization that specifically collects data on bias-motivated violence towards the LGBTQ or HIV-impacted communities by the hands of law enforcement.

**Chella:** I love when you talked about not giving the state or the county more power because ultimately, I don't know about you all, but I don't trust the state, I don't trust the county. I think that they're bullshit. I think pretty much we're working, especially [in the] nonprofit industrial complex. Even with LA-CAN and Stop LAPD Spying, and the work that they do—it's like, we can only do this because this is what our grant allows us to do. I think they're walking a fine line. Yeah I was just thinking that.

Chella Coleman, a black trans\* femme organizer and longtime LA-CAN member who has lived on Skid Row for a number of years, responds to her innate distrust of "the state" and "the county." Chella references two downtown anti-criminalization and anti-police violence organizations, LA-CAN and Stop LAPD Spying, as even in themselves being overtly imbedded in their ties to the nonprofit industrial complex. Her statement

highlights the inability to even trust organizations that are founded particularly to critique the state, since these organizational practices are often tied to funding that shapes the limit of their own anti-state practices. In other words, how can trust be built within anti-state spaces that too have a controlled loyalty to state-sponsored funding?

**Loba:** One of the things that I was thinking after hearing the two of you talk was even the definition of the hate crime. It's so ridiculous because if I say something, even something like, "Fuck you white person," that could be a hate crime according to these things. So it doesn't really take into consideration the power dynamics [snapping affirmation from other discussants]. And also people might not even know that somebody's committing a hate crime against them. Because I'm thinking a lot about...immigrant people [who] forget that race exists, or want to, because of white assimilation. So they might completely be targeted, and they're like "no, it wasn't race-related, or it wasn't gender-related, or it wasn't a sexuality-biased thing," but it is. But because there's no education around it, people don't really know, or even just the shame of being victims of hate crimes can stop them from actually going out there and doing anything.

Loba points out the very central critique of hate crimes, which is its ability to both over-define and be entirely disassociated with historical structures and dynamics of power, white supremacy, and racial capitalism that instructed the first legal protections of minority persons and communities through the Civil Rights Act of 1964. Even in the reform of such institutionalization of legal anti-discrimination through legislation, the purpose of such acts, were, at that time, politically imagined as a response to largely anti-black, racist, religious and/or ethnically targeted violence. For example, there was a recent case of the "vandalization" of a white-owned art gallery in the contested hyper-gentrifying terrain of primarily Latinx neighborhood of Boyle Heights on the eastside of Los Angeles. It was discovered that on the gallery's exterior metal roller shutter, there was black-and-yellow spray painted words "WHITE ART," all in uppercase. This

incident was being investigated as a potential hate crime, echoing Loba's point regarding the absence of power critique.<sup>51</sup>

**Chella:** It's funny we're talking about a hate crime. But even the term for domestic violence, if you're a homeless person, or houseless person, and your spouse is being abusive to you, because you're not in a home, that definition... So these terms are fucking tricky. They just added sexual orientation about, what? Ten years ago? And they're going to fight to add gender identity and hate crimes. Right? So that's so big. It's like they're getting at some of these terms. It's like splitting peas, thinking of the non-documented, "Are you even really legal?" That kind of shit.

Chella makes a linkage between the interfacing criminal justice system anti-violence strategies that span from hate crimes legislation (Hate Crimes Statistics Act 1990, Hate Crimes Sentencing Enhancement Act 1993, Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act 2009) to the largest federal legislation regarding domestic violence (Violence Against Women Act 1994). At the same time, she complicates these connections by saying that any form of protection fails to account for those at the intersections of houseless or unstable housing status, thus leaving them to be further criminalized or at risk of state-directed violence. Both hate crime legislation and domestic violence legislation do not adequately address the intersections of those who are houseless, therefore rendering violence against houseless populations legally unprotectable. Chella remarks that the slow reform of adding sexuality and gender as protectable legal categories is perhaps "getting at some of these terms [categories]." Nevertheless, she retorts that it is like "splitting peas"—since the expansion of legally

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<sup>51</sup> Brittny Mejia, "LAPD investigating Boyle Heights vandalism as possible hate crimes sparked by gentrification fight," Los Angeles Times, November 3, 2016, accessed April 26, 2017, <http://www.latimes.com/local/california/la-me-ln-boyle-heights-20161102-story.html>.

protected categories does nothing to help those who are undocumented or already targeted as criminal in their very legally constituted subject-hood.

**Edxie:** Yeah... This is the first time I'm sitting in a space and talking so much where I've heard "hate crime" so often. I don't generally use hate crime in a lot of my organizing so much as like violence or gender violence or racially driven violence. I feel like Chella was talking about certain crimes. I feel like, hmmm, I feel like when it comes to law and certain people that break laws, some laws are inherently unjust, or have historically been unjust laws. So I don't feel like all crimes are necessarily like inherently bad... There [are] survival crimes that people have to do. You were talking about abortions that people have to perform, or you know, sex work for example in certain states. Some of these crimes [are] only viewed as negative or bad because it's painted as a crime. So we're literally using the same institutional language that is oppressing us. Which is why I feel it's very necessary to often try to detach yourself from this institutional language that categorizes certain things into just good or just bad, versus "look at the police." The police are agents of violence themselves. They would not be police officers if there weren't any violence within this institution. I guess I haven't heard "hate crime" in quite a while, or really know what that means. Just taking into account what is the power that is naming crime and what is the power that is naming hate crime—it's coming from the state. The state is the thing that's naming the hate crimes, and they themselves aren't taking into account their own hate and their own violence.

Edxie adds to the dialogue the very conundrum of the discussion as centered around the predisposed state-endorsing vocabulary and over-definition of "hate crimes" itself. Using the counter-examples of gendered violence or racially driven violence (what is previously termed "bias-motivated" violence), Edxie undercuts and questions this popular corroboration of abandoning the term and conception of "crime" itself, which is undoubtedly tied to the very imposition of colonial, genocidal, and chattal slavery constitutionally founded law. Edxie reroutes the idea of breaking the law as crime, and instead asks the team to consider the very breaking of law as that which is not only necessary, but also the most just. Edxie directs us to the issue of also "survival crimes,"

that which is done as a means of survival and against state-induced slow death. Further, the very foundations of legality and illegality, crime and justice, are brought into contestation: the necessity of providing state-defined “illegal” direct support such as abortions (Loba) and the engagement in sex work whether survival or by choice (Edxie). In questioning the work of validating state apparatuses and institutions, Edxie interrogates the term “hate crimes” as a given: “So we’re literally using the same institutional language that is oppressing us. Which is why I feel it’s very necessary to often try to detach yourself from this institutional language that categorizes certain things into just good or just bad, versus ‘look at the police.’”

Again, Edxie reminds us of how we generally contextualize violence and crime as that which the state defines, surveils, and distances itself from, rather than the very agencies, institutions, and entities that administer, condition, constitute, and program such violence. Edxie concludes, “The police are agents of violence themselves. They would not be police officers if there weren’t any violence within this institution.”

**Rio:** And then to add to that, I think what’s so alarming for me with the hate crime, and the way it’s described is just that it’s another thing to tackle onto making somebody do something illegal based on how the state sells it. Like that person just did something illegal because “that was a hate crime!” versus it being something else like self-defense, etc. And I do think it’s a double-edged sword though, because at the same time I agree with you, but at the same time we need resources. And unfortunately because we’re so damn dependent, because the system has been built this way, we’re dependent on money and capitalism, and also just culturally the way our society has been built where we don’t value actually giving money to people who are actually are in need. Instead people go spend it on crap all the fucking time. So then we’re dependent on actually trying to get this money, so these numbers do matter at the same time. So it’s totally a double-edged sword. So it’s like fuck if you do, and fuck if you don’t [laughs]. I really feel that way about it.



Rio delves into the ways in which allegations of hate crimes themselves have become detached from questions of self-defense and/or historical and material conditions of resisting and retaliating against white supremacist power. In a clear example, the self-defense case of CeCe McDonald, a young black trans woman who survived an attack by a group of inebriated white supremacists, was tried as second-degree manslaughter. The eventual “victim” Dean Schmitz hurled anti-black and anti-transgender language at McDonald and followed to attack her. McDonald, in an effort to protect herself, had to fight against Schmitz’s violent pursuit. CeCe McDonald’s case created a groundswell of support across the United States. McDonald was technically herself being a victim of multiple “hate crimes” including deep laceration on her cheek from a broken glass from Schmitz’ girlfriend, but she was instead pursued by prosecution as the perpetrator in the events that unfolded. Rio makes the connection between not only the thorny issues of hate crimes in cases of self-defense, but further, the dependency on organizations that, whether ideologically fixated on the pursuit of objective data. They state, “I do think it’s a double-edged sword though, because at the same time I agree with you, but at the same time we need resources. And unfortunately because we’re so damn dependent, because the system has been built this way, we’re dependent on money and capitalism, and also just culturally the way our society has been built where we don’t value actually giving money to people who are actually are in need.”

**Alexander F:** And what’s killing me is I’m looking at the county. Now here’s a question, do police get charged with hate crimes? Because they are, they seem to be the top offenders. So are they being held accountable for their hate crimes? [Deep collective sighs]. The county apparently is not going to file reports based on the police and the part they play in hate crimes or this violence. So are they

even being charged? Are they even being held accountable? Are they even saying “Hey look, that was wrong”? You know? Something that simple, “Hey, this is not right.” Point blank, period, “what you did was wrong.”

Alexander F here points out the deep and perhaps intentionally imbedded contradiction of the criminal justice system—that is, its inability to be easily reprimanded as itself a criminal organization with criminal actors. Even in the recent drawn-out investigation into former LASD sheriff Lee Baca, the results of his trial and his complicity in violence inside the LA County jails do little to change the culture and power of the LASD. Alexander F highlights our cultural and shared public inability to even, without reprimand or reprisal, point out clear injustices dealt at the hands of law enforcement promoted by a culture of unquestioned fraternal loyalty.

Rio then responds to Alexander F, stating that “It’s so selective. That’s the damn thing about it. They’ll never charge a police officer or the millions of CEOs that are exploiting people all over the fucking world.” Herein lies one of the most cogent critiques of both hate crimes and the criminal justice system: the very definition of hate crimes, or crimes in general, is simply interpersonal wrongs. Massive scale exploitation overseas as a result of corporate decision-making, even if directly implemented by single individuals, is allowable due to the protection of corporate interests. The shuffling of responsibility and accountability from corporations to foreign domestic policies works to benefit US corporations and those in power. This evasion of responsibility through legislative loopholes is a tired late-capitalist narrative of individualizing oppression and placing blame on those most disempowered within the system. Such a critique turns the very formation of hate crimes on its head. The dialogue continued, with some impassioned

cross-talk, unraveling the very formulation of hate crimes itself. The roundtable shared quips on the ways in which certain configurations of violence, even if motivated explicitly through bias or bigotry, is simply not registered as a crime or hate.

**Alexander F:** With hate crimes.

**Rio:** With their own stupid-ass definition.

**Alexander F:** With their own definition. And it's being done over and over and over again. But this is your rule [taps repeatedly on table] and you're not being accountable or held accountable to your definition.

**Rio:** Right because even the graffiti example that was brought up here, that's so fucking ridiculous. Because what about CEOs who are exploiting people all over the world?

**Loba:** Advertisements everywhere.

**Rio:** Yes, or advertisements. Thank you.

**Edxie:** Who consented to dead white dudes on the side of a mountain?

**Loba:** Or like misogynistic—that's a hate crime. But that's also why I think that this hate crime thing is culturally and socially constructive, because maybe it's not a hate crime for a cop or for somebody to be like, "So you're trans, did you have a surgery?" But for other groups of people that's a hate crime. For other groups of people it's like, I'm trying to learn. It's like built based on the system that is fucked up, because an entire society is fucked up, so how are you really going to know what a hate crime is if little kids are not being taught what is to be like a real good person.

From misogyny to transphobia, and all of their intersections, Loba points out the very ways in which society, institutions, and law enforcement can inculcate such behavior such that young people are taught what is and what is not acceptable bigotry based on a calculus of what law and the courts find justifiable.

**Alexander F:** So they get into semantics every time. They're going to forever get us on semantics. Because this is the definition, "we're going to give this definition and you have to live by it, but we don't because we made the rules. And we have no idea what we wrote but you have to live by this."

Alexander F responds in pointing to the issue of semantics and the ways in which definitions of crimes or hate crimes are defined through legal apparatuses.

**Chella:** It's crazy ya'll, I don't know if you all know about Trishawn [Cardessa] Carey. I know a few folks know about her. But long story short, she was in the tent next to Africa the brother that got shot in Skid Row. And, um, the police that are the prosecuting side, they were using a lot of language, like, or "They were using gibberish!" They were using crazy people language. It was [understood] that, number one, Skid Row has a high population of veterans. Number two, [it] has a high population of folks who have addictions and who have to suffer...mental illness. Number three, they were just waking up out of a freaking sleep. So it's funny that you mentioned semantics. I think of like, I don't know if you all know, but a week ago actually, there was a brown woman that was murdered on San Pedro and Twenty-First, and they [LAPD] covered it up. They were like, "No shooting happened here." Yeah....

**Loba:** (0:59:21.0) By the cops?

On March 1, 2015, Charly Keunang, Cameroonian immigrant who was affectionately known as Africa, or Brother Africa, was gunned down by LAPD officers in Skid Row. Amidst the commotion, Trishawn Cardessa Carey, a houseless resident of Skid Row, retrieved a police baton that had fallen on the concrete sidewalk in an attempt to defend her friend Africa from five responding LAPD officers. At most, Carey raised the baton at an angle indirectly at no particular officer, before she was tackled to the ground. Moments earlier, while LAPD officers were attempting to vacate Africa from his tent, Carey, who was ambulating around her friend's tent, was being forcefully pushed and redirected away from the site of confrontation. Carey returned to the scene several times, not in a panic, but with concern, clearly wishing to witness. The surveillance

footage of the whole incident did not offer audio; however it was clear that the LAPD officers were escalating their tactics to aggravate Africa out of his tent. Soon after Africa was dragged out of his tent, he was fighting for his life in a state of complete activation and was not capable to respond to the officers' directions. Africa was gunned down with six bullets through his body. Witnessing her friend be violated and shot, Carey responded with her best instincts to protect a friend and later faced twenty-five years to life for felony assault on a police officer. In the end, Carey received community support for her case and advocacy surrounding her mental health, as she was diagnosed with schizophrenia. As a result, she received instead an alternative sentence to receive support and treatment through a residential housing and treatment program.<sup>52</sup>

**Chella:** Yeah...yeah the cops did it. I think of the language that they use because language is so powerful, and it's given to us by people in power. I love when you [said] I did not consent to these things. We didn't. These things were forced on us by colonization, by assimilation, by all the other acts of violence that they've done to us! Our intergenerational and racial trauma, and thinking of how that changes too. Now there [are] assimilated brown and black folks that are doing the same shit. Skid Row cops are predominantly people of color y'all, and that's the sad thing. Skid Row BID a lot of them are brown and black now. Because of LA-CAN and they were reading on how it's white people. So I'm just thinking about those things.

**Rio:** I just wanted to add that, that's the problem with the whole legal system. People can utilize the hate crime in their favor to go fight in court for those who have access and are privileged to it. Other than that, it's a moot point; it means nothing.

**Chella:** (Sigh)

**Loba:** It's dehumanizing too, I think. Any kind of law is dehumanizing, but hate crime is so dehumanizing because you're just putting people into this box without really noticing

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<sup>52</sup> Marisa Gerber, "Homeless woman gets probation and housing after incident during fatal skid row shooting," Los Angeles Times, May 18, 2016, accessed April 29, 2017, <http://www.latimes.com/local/lanow/la-me-ln-trishawn-carey-sentence-20160518-snap-story.html>.

that there's way more to people besides this box. And it's just dehumanizing. It doesn't really treat people as humans.

As the homeless capital of the nation, Los Angeles' Skid Row is considered uniquely positioned as both a testing ground for social services for houseless individuals and public safety management, all the while protecting urban real estate and business development. Chella takes to task the very conception of consent—and likewise coercion—in describing the hegemonic power of policing and language. She frames this conception of consent as modern offshoots of colonization and forced assimilation—one that creates the multicultural white supremacist and diversification of law enforcement agencies like LAPD to LA Downtown's Industrial Districts (LADID) Business Improvement District (BID) officers, or “public safety ambassadors” who patrol the streets of Skid Row.

Rio's response points to the ways in which everybody loses in the game of hate crime reporting. That is, certain bodies will always be positioned as the more “ideal” victims, such as those who are without a criminal history or undocumented status; likewise, those who consider reporting to the police an easy task will always have the advantage of being interpolated as victim by the legal system. Similar to Chella's description of the ways in which multicultural representation can be usurped by state apparatuses, Rio offers us the context in which historical conditioning of structural, legal, and institutional power will always favor those who are most confident with the law siding with them (i.e., white, wealthy, educated).

Loba follows to describe the very ways in which the act of becoming a statistic or data, through the reporting and record keeping of a hate crime, removes the person and

their embodiment from the numerical narration of the violence via crime data. For Loba, the law itself is an act of dehumanization. That is to say, although laws are positioned as a kind of shared tacit agreement, they function to penalize and regulate bodies in the name of justice and therefore neutralize their violent application and processes.

**Chella:** I think I've always wrestled with this as someone who, I consider myself an abolitionist number one. And number two I also consider myself a human. I remember being on the phone a few weeks ago with a friend, and I was like, at the end of the day, if someone wants to hurt one of my friends I wouldn't want them to live. And that's just my feeling. If someone was to murder one of my friends. But I also see restorative justice: it's gotta be on both sides. I don't want to describe that. I'll say this: even in my workplace there's this specific person that's been called out for abusing people, being a known abuser if specifically women. They didn't even stay to say, "Hey, I want to be accountable to this" or, "I want to fight against it." They fled. So thinking of those kinds of things, like how restorative justice, it's gotta be on both sides. Both the person that the violence has happened to has to be willing to participate and the person that's perpetrated. And most of the time, especially because we're dealing with such a [heavily] misogynistic and patriarchal society, which is due to white supremacy, [it] teaches us that it's okay to portray violence.

Chella's statement reveals the concept of abolition as intrinsically tied to a transformative non-penalizing justice, as well as the contradictions that arise from vengefulness or community-based response to violence against the harm-doer. Chella states, in referring to having a multiplicity of approaches, "but its got to be both sides." She describes the difficult scenario in which the harm-doer does not want to be a part of any process of accountability but rather downplays or ghosts in the face of being confronted with the violence in question.

**Chella:** After the Slut Walk y'all, I've been reading a lot of this and trans-men respond to it. It makes me disgusted! I'm like, you should not be commenting on women's issues. At all right now. You shouldn't. Because at the end of the day, they're the ones that have to deal with it. I think of, like, what can we really do? I think someone posted, one of my homies, Tiffany, had posted a thing on community responses, where there was a

community beat down for someone who perpetrated violence. That's real. Indigenous cultures did that shit. Or a community, like at the Black Lives Matter communion where there was a snitch, pretty much, and they called the cops on a trans guy using the restroom. It was like, "It was one of you. Who did it so you can get a community beatdown..." Let's do that. Why are we so afraid to take power? Obviously it's in our agency, why are we giving it to the cops? Where they're gender profiling, racial profiling, socioeconomic profiling. There's all these different systems that they're using. I just thought of that, and I was like oops!, I just thought of that.

Chella continues, in describing various instances in which issues of identity politics and community accountability involved a variety of responses from retaliation to internal inter-group transformation. Chella describes for instance how trans-masculinity can both operate to disparage femme-visibility through occupying space in which their experiences do not align and, likewise, can too experience being profiled simultaneously for one's gender and blackness. The act of a community "beat down" was in fact a strategy to deter future violence, to "take power." Chella continues:

**Chella:** It's so fucked up because I feel like we're often left choiceless in this society. When something severe happens, I often identify as an abolitionist as well because I don't feel like the government needs to punish people; it's ridiculous. There's accountability. We're talking about accountability versus punishment. But even I've had to resort to call the cops because I'm like, who the fuck else am I going to call? And I totally call the cops on my brother [who] beat me. I had no fucking choice but to use this system because I was like, he's not a willing participant. We tried to have the talks and it's just not happening. Just like you said, both parties have to be involved with actually wanting to do it. And I'm really not feeling like I have a choice. Or even a community beat-down, it's not worth it for any of my friends to go to jail because they went to go after my brother.

Chella aptly describes the way in which positioning oneself as abolitionist does not somehow suddenly gift a bounty of transformative justice tools and alternatives to policing and imprisonment. The reality is, especially for those straddling poverty, racism, ableism, sexism, and gender non-conformity, do not have the privilege to wait on



alternative options to appear or be formed through some form of community process. Instead, they sometimes unfortunately have to turn to law enforcement to anticipate the more dismal alternative and weigh the best “in the meantime” response. The decision to not intervene in interpersonal violence through administrative violence might actually provoke higher stakes of exposure to increased state violence in the future. In moments such as the one described by Chella, preventative practices of having to interface with police is a measured sacrifice to potentially desist rippling violence in the future.

**Chella:** That’s why we do it in secret. People live off the grid. There are ways that we do not have to depend on the system. I totally hear that. My neighbors are 80-90 percent addicts, and they are the first ones to call the cops when someone does something. And it’s so complex right? I wouldn’t specifically, because I have in the past and they [LAPD] have not been the best. They just haven’t. Then I risk them being more abusive towards me. So that’s one.

For Chella, her decision to call the cops is not necessarily a matter of those who are most comfortable or trusting of law enforcement, but those who struggle with, for instance, their own sense of psychic or bodily safety due to substance use as a normative practice in spaces and living communities under a state of duress.

**Alexander F:** This instance where you felt you had no choice but to call the police. Even in those situations I’ve been personally in a situation where I felt as if I had no choice but to call the police. And I called the police and they didn’t even respond because they thought that it wasn’t enough of an issue and they told it to my face. I call and they said, “This is not enough of an issue for us...” I’m going to give you a situation that happened. My ex-girlfriend was upset with me because I said this is not working out. When I said this is not working out, [and that] I think we need to part ways, she got really angry. She says, “okay.” ...She bashed me [for] being trans and then committed to taking my picture and a description of my transition, and placing it all over social media. So when I call the police and say, “What can I do here?” [They responded by saying] “This is not enough for us to handle.” So in these instances... you felt like you had no choice...[...]

Alexander F explains an instance of intimate partner abuse, where his identity, deadname, and photos prior to transition were plastered on social media as a form of retaliation from a (former) domestic partner who was uncomfortable with his decision to end their relationship. Alexander F felt like his choices were limited in terms of having to access some kind of legal measure through reporting to the police. In this instance, law enforcement was not able to support his attempt at self-protection precisely because it could not deal with less visible, or normative, forms of online harassment. On the other hand, if the threat was committed against the security of a state agency, there would be no end for the potential types of covert and overt intervention that could be taken.

**Chella:** I feel that's where education comes in. Real education. Community education. Most of the stuff I did was for Ezak and Edxie; keeping it real. And me reading the books I've read and understanding where the systems have been placed. So that's where those come into play. And I think especially with men specifically it's really hard. Especially men of color. Because for brown men, there's that machismo. For black men there's the misogyny and patriarchy that goes along with being black and being oppressed. Because when we're oppressed ourselves we oppress other folks. So it's like how do we break those ties within ourselves? And then also educate other folks. And I think it's like sometimes it's that work that we need to do. But sometimes that work gets fucking depressing and hard. I'm keeping it real. Y'all seen my Facebook? #Keepingitreal.

Chella describes the need for popular education concerning the intersections of interpersonal, sexual, community, and structural violence. For men assigned male at birth (AMAB), and particularly men of color, the intersections of misogyny, patriarchy, and anti-black racism produce intra-community violence that requires different sets of community-education tools, precisely so that the emotional labor doesn't lie on those at the receiving end of harm, what Chella describes as "sometimes that work gets fucking depressing and hard." The conversation shifts to focus on instances like the LGBT LAPD

recruitment, training and safety forums, ones in which incentivize the participation of LGBT community organizations. Chella, Edxie, and Ezak discussed the conundrum of LGBT recruitment by the LAPD in terms of the prioritization of hate crime reporting and, likewise, the militarization and pinkwashing of law enforcement.

**Edxie:** I just wanted to talk a little bit on legitimacy. There should definitely be cultural and philosophical shifts towards not necessarily the necessity of legitimacy. For example, though I fear the reason why people might, for example, the trans woman's family wanting to make sure that her death meant something. What does it mean for her death to be counted as a hate crime? I don't know if it recognizes all the intersections that she was living within. And then talking about calling the police, we were just talking about the Violence Against Women Act of '94 and how that did usher in a huge national legislation, a transformation of the legal system going from corporal punishment to cardinal punishment. And the growing number of women incarcerated, whether trans or bi's, it's because of their retaliation against their abusive partners and often calling the police. Still, to this day my comrades who are women-identifying people who go to jail ... say that the people they were talking to were women that retaliated against their partners. In the case of Marissa Alexander, who was also looking at more time than any police officer is going to get if he shoots, does an extrajudicial killing on someone that he suspects is a criminal. Where have we been in terms of throwing more legislation and regulation and laws out there and what has that done? Has that in fact liberated us any more? Has the Violence Against Women Act liberated women any more? Look at the numbers, look at the same numbers that some of these are a part of. Look at the mounting increase of gender violence as well as the increase of incarceration of a lot of women of color, a lot of people of color in general. So I do think that in terms of if there are ways that we know of to handle... not only the interpersonal violence within our communities but also the violence sanctioned by the state. I don't think there is a point, this recognition and inclusivity politics is often; it seems really moot. Not coming from a place [and] being like, I don't think we should do anything. I think we should just be really critical of our movements. But I think that there's a dread of more reforms means more police. The police have been becoming more militarized. The police are, for whatever reason, the LAPD is getting 1.5 billion dollars every year. They're still asking different communities that we don't even know, sometimes we don't even catch it, but they're asking different communities neighborhood councils for thousand of dollars for programs to become police officers. For cadet programs for the police, and it's like this is your only solution as the state? The only solution that you have is to expand state. And I think our solution should be decreasing the legitimacy of the state and that might mean chipping away at a lot of the powers that they do have. It's hard doing that when access to that means going through the same channels of politics and reform that it takes to further legitimize itself, further expand itself. I just feel that more direct actions are necessary. More community

programs to handle and facilitate different acts of violence are necessary. It takes a lot more people power. It's hard because there's no funding and the people have to live, so people are opting into nonprofits because they're going to do this work anyway, but they might as well do it getting paid. But that turns into professionalism and then that turns into a whole complex of things related to all these other industries that are feeding into our own oppression. I do think it's necessary to have conversations like this. At least hash out how we can criticize our own actions as well.

**Chella:** About four years ago, we went to this LGBTQ LAPD forum where it was at the pigpen (*laughs*). It was downtown; it was right where I live. They were still armed. Even the LGBTQ officers were (sigh)... The very first video you see is this recruitment video that was, "Look at what we do. We're just so special. If you're LGBTQ, we got you. And if you're not documented we got you too." You have this co-opted message from them where we never fight against it. I love your point. I say: how do we delegitimize the police? If one of my home girls, one of my neighbors, said "Chella can you call the police for me?" I won't call them for me, but if they need me to call for them, I will. And I have because that's their conscience. Everybody is on different levels. But how do we delegitimize [the police] and make sure that they're not co-opting any of the transformative justice spaces or restorative justice place. And make sure that these things happen because some perpetrators don't want to be accountable like I said. They flee. Calling people out. People flee. And it's like how do we hold people accountable when they don't want to be accountable? [...] That's what divides our movement, that's why we have such a small base. If men would own up to their patriarchy and misogyny and violence that they were doing to people, especially femme-bodied folks, it would be a little bit easier to be like: we can be together, we can join together. But without that we're fighting each other, and there's all this infighting. And that's what I see in the movement a lot.

**Ezak:** I think what you had brought up earlier was around education and simultaneously doing both because I think that's the tricky thing. We're dealing with trauma, [and] the community... pushes people up into further isolation. And for whatever guilt—they may be the victim themselves. However they got to where they are and aren't taking accountability, it's complicated. It's more than just one situation. It's patriarchy, yes, but it's so complicated on how we are dealing with our communities in a way that's real. Because on one hand it's like, yes we could do that and sometimes it's necessary; it just depends on the situation. But also we need to hold the complexity of people taking their own lives because of mental health stuff that is associated with all of the trauma from state violence. But I do think, and also just to say one thing that you had said around the cadet thing, we were in the belly of the beast and they were doing a recruitment of how... It was like soldier youth, like a video. It was so disgusting. It was so gross. It was bad.

**Chella:** We had to debrief after. It was just horrible. That was so...

**Ezak:** And then also, this whack-ass cadet training, when I first got into nonprofit and particularly with my organization years ago when there was just a lot of [different] people in the organization at the time that weren't on the same page. Some were pro-police, some weren't, so what ended up happening is this younger person was put into this situation where I was like, I guess I have to do it; it's my job. It was being put into the LGBT cadet-training thing. For me, it was framed as you get to talk shit or whatever. You get to tell the police how they are mistreating trans and queer people, and I was like, okay, I'll get paid. When I started to go into those conversations like a 16-week course, it was disgusting, and I saw trans people being like, "Maybe I'll become a police officer" because they were talking about the thing that comes with packages. Some of the women were like, "That's a cute cop. He looks good in his uniform." Layer after layer, just to hear people getting co-opted into that system. It was really hard to see that in my community. And then just try to be like, "What can we do right now?" I think just to bring in what you were saying, super important, around direct action and also thinking about using. It's a lot of energy, and it's a lot more time, and it's frustrating, and it's also like establishing those, even radical people coming together, that shit sometimes still comes up, and we create these systems that are still what we're trying to run away from. Where's the heart liberation work that's happening within that. My heart is like this right now. Just hearing conversations.

This conversation of integration and diversification of law enforcement and military—more specifically, expanding the legal coverage and categories like sexual orientation and gender inclusion in hate crimes—has remained central priorities to national white-led LGBT nonprofit organizations such as National Gay and Lesbian Task Force, Lambda Legal, and Human Rights Campaign. However, as early as 1974, Alameda County's Sheriff Department began the first open and visible recruitment of gay officers in order to make more possible trusted liaisons for the rise of reported and more visible anti-gay violence in the San Francisco Bay Area.<sup>53</sup> That is to say, the strategy of implementing liaisons as "trusting officers of the community" has always existed as a strategy for building community-oriented policing. The conversation continued to discuss the

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<sup>53</sup> Susan Cohen, "Homosexual Police Officers," *The Evening Independent* (St. Petersburg, FL), Apr. 25, 1979.

entrapments of transgender visibility, even in the figure of a transgender police officer, sheriff, or military personnel.

**Edxie:** It's really important to understand that we are [at] a point in time when trans identities particularly are being co-opted for reform... Look at Caitlyn Jenner, she was a Republican and look at all of the bills and all the legal discussions around what is trans right now. And it feels like it's becoming this language, even this identity is becoming institutionalized, and when language and people's identities become institutionalized that creates this norm. I feel like that norm then creates margins that can't really assimilate into those norms and then that becomes oppressive for them. So I just feel like we have to really, really look at these recognition politics and just be critical of how the state is organizing to co-opt our language, to co-opt our movements, because yes, it's just becoming a lot more heartless and a lot more bureaucratic and I don't think that direct action is mutually exclusive for radical... People have done direct action for reform and look for liberal agendas as well. But the difference is trying not to be co-opted by the state, because you talk about other direct actions that black people have done in order to serve their communities. Look at the Black Panther breakfast program for example. The only reason there are breakfasts in all the schools is because of the Black Panther program. They were just co-opted, and I feel like it does disservice for us to create solutions and then have the very state apparatus that is oppressing us co-opt it and then give us pieces of it versus owning it ourselves. And everything is so commodified I don't know if owning your own thoughts or ideas is really the point. I think we're trying to veer away from every single exchange being commodity or commodified because what are we looking at? What is our future looking at? I don't want to look at a future where I have to continue to exchange money or use money to pay for air or water, like with dead white men presidents on pieces of cloth. It's a really weird ritual. I don't think people take into account money and how much it facilitates white supremacy based on white faces on your every single exchange regarding currency.

**Respondent:** But they want to put Harriet Tubman on it. (crosstalk)

**Respondent:** No!

**Respondent:** They put Sacagawea on the coin.

**Respondent:** Yes, I know but who—

**Respondent:** That's the politics of neoliberal currency.

**Respondent:** Right, and that seems crazy.

**Respondent:** Caitlyn Jenner, Caitlyn Jenner! (*laughs*)

**Respondent:** To kind of romanticize that history. I'm sure she's already on a bunch of currency.

**Edxie:** They don't ask anyone and their power is even stronger because here's your rights; here's your grants; here's your funding; here's all the things; here's there's these little trinkets, but that can be taken away or they can stop. So I don't know what it takes for us to really get free, so much as delegitimizing the apparatus that is oppressing us. Maybe de-cruitment? Urging people to de-cruit themselves from that? We have to be de-cruiting mentally, because I also find that a lot of the [organizations'] politics...are very orthodox right now,...very problematic just in terms of how an organization can go into a space that needs help that is going through an insurrection or an uprising. And then that organization, since it was maybe well-established by professional activists or whatever, they can then name what that is, and they can spark an entire movement that they name after. [They're] co-opting and capturing the decent...people who are organizing on the ground from the beginning. So I do feel that there's that de-cruitment, decolonization, that is also necessary to put into our own practices and continue it. Because I think certain analyses are good; we've just got to do more. Just doing so much already. [...]

**Chella:** Who even gave us these concepts? For me, I watch a lot of TV. I see, even thinking of the play that's going around called "Stories from the SHU," which is totally about the dehumanization of prison and specifically when they go into isolation. And for me it's like, we grow up thinking person steals, person does something bad, they go to prison, they go to jail, wow. So that's in our minds, but I'm with you though. I want something, because we have to have something.

**Loba:** And then they did that, they actually went to attack him because they're like, this thing isn't working out, we tried to do the court thing and now they aren't in prison. I don't know what happened to them at the end, but it's one of those things that it's kind of like trying to use that. We're trying to decolonize how we deal about this, so we're not going to do anything about it and we're going to keep protecting him. And then when these people try to direct action then they are getting harassed by the system. I just want this dude to suffer so much. But is that also feeding into what we've been taught: [...] this person does something wrong, let's make this person suffer. But then you want that because you don't want to ever happen to any other little kid.

Loba here is referring to a "community accountability" scenario described earlier, not shared in detail in this text here, where a known serial child rapist amongst "community" was given a serious debilitating beat down as punitive and harm reductive strategy to prevent future sexual violence to young people in the community, since the courts and

criminal justice system had proved deeply ineffective. Chella then responds accordingly about the figure of the “pedophile” when considering possibilities of treatment, rehabilitation, and penalization:

**Chella:** Especially when it comes to pedophilia. And maybe I watch too much TV you all, but pedophilia and psychopathic people and sociopathic people are the worst. I think we all have, not pedophilia, but we all have some sociopathic or psychopathic tendencies, some of us. But some of us are able to suppress that more. But here’s my own thing, I was thinking about this because I was talking about this with a friend yesterday. Apparently in the 80s or 90s there was this person going around, and I think they were either brown or white or black, and they were doing some anti-Asian hate crimes. And they found who did it, and the Asian community of Long Beach or whatever got together and were like, let’s go hard for this person; we want to go teach him about us. And so they went to court for him and were like, “Don’t send him to prison, please let him work with us.” And so the guy worked for them [the Long Beach Asian community] and learned about their culture... At first he was really resistant, but sooner or later he got better. My friend Hamid told me that story [...] He told me that story, and I’m like, wow that’s deep. But that’s some hardcore shit, people that the violence had happened to were like, “This person’s hurting, let’s reach out to him.” It’s deep.

**Loba:** How much energy do you want to put up in a person that has committed so much hate? That’s the thing that is also, especially with sexual assault, that’s what it comes to because even direct action, it takes so much work, and you’re putting your life on the line. Because if this dude has a bunch of other rapist friends, then what’s going to happen to people that are talking against this dude? So it’s so scary because I want something to happen to you, but at the same time I don’t want to use the cops, and even if I use the cops, it’s not going to do anything because they don’t give a fuck about rapists—they actually love them. And then if I try to do something directly to this person, then I’m putting myself on the line, and all those people are putting all this energy they could be using into better things that are more useful into trying to teach this dude to not be a rapist.

Chella and Loba illustrate principled differences in the potentiality of restorative justice (RJ). Chella, although not blanketly endorsing the RJ instance of the Long Beach Asian community in choosing to compassionately teach and conduct remediation with the harm doer, frames this moment as one of the possibilities of curating restorative justice responses to bias-motivated violence to actually benefit and heal community, thus



divesting the power of the criminal justice system. Loba, on the other hand, brings up the instances of invisibilized and disregarded impact of sexual violence in order to highlight the labor required on behalf of survivors and community to teach perpetrators. That is to say, the labor of education, and by extension the work of restorative justice, often lies upon femme or women survivors. To teach men and/or masculinist persons to not be rapists is troubling, particularly given the fact that institutions such as government, prisons, military, and marriage, have historically promoted a neglectful, if not all together, unabashed endorsement of a culture of rape of femme and women's bodies.

Rio follows to describe how, in indigenous Mayan community of Guatemala, neglect from local law enforcement led to the necessity of collective community defense efforts to eliminate a known community killer. As Rio describes, the following is "just a horrible story":

**Rio:** And there's some fucking severe consequences too when you don't have someone, not a cop, but somebody who could forcibly stop someone. And the reason why I'm saying this is that when I was in Guatemala, there was a Mayan community telling me they had complained and complained heavily to the police that there's a really fucking crazy man here, and they were all indigenous folks asking "We need you to stop him." And the police would literally laugh at them and scoff at them. It's just a horrible story, just so everybody knows. It ended up being that this man ended up going to the little elementary school and murdering three children at the indigenous community. And because the community hadn't gotten it taken care of, they took it upon their own hands to do a community beating, but a real one where they burned him alive in front of everybody. And so it's intense because the Mayan woman was telling me, it's really fucked up because it corners us into these situations where we have to act in extreme ways that only continues to damage us. We all had to see this, this was multiple acts of violence to ourselves, but if we do not have actual recourses, what the fuck do we do? And people will go crazy, of course they are, they just killed your kid, what else are you going to do? You are going to go fucking full fledge, full throttle on that, and it's fucked up when you don't actually have really good choices to actually force, in these extreme cases, to forcibly stop that person. It's crazy.

**Edxie:** Did they get prosecuted by the police or anything for doing that?

**Rio:** I don't know, when I came to the community, it just had happened, and I don't even know if the police even entered into it, but I have no idea. I just know that it was obviously triple, double-traumatic for the community because we have the first instance, and then we have the second instance. But then at the fucking same time, what the fuck else were we supposed to do? She's like, "I get why they did that. I understand why the family [of] those children did what they did." They were like, "We've been trying to tell the cops; they didn't do nothing. What else could we do?"

**Chella:** And that's the double-edged sword, because I know folks who have literally been like, "This person has been harassing me; this person has been harassing me; this person has been harassing me," and cops don't do shit unless they're white. If they're a white person in Beverly-fucking-Hills, they'll do something.

**Rio:** Yes, real talk.

**Chella:** And that is real because then you feel powerless and then you want to do something, and then you in turn... I could see that traumatizing people. I could see the whole scenario, even the burning of the perpetrator—that could seriously cause some damaging effects. Especially, yes—

**Ezak:** I think about what would be an alternative to that, I don't know. But there's also hit men or people who do things silently or take you to the side of your community isn't being trumped, but they may have wanted that for everyone to see that person burn because you know about part of it too.

**Chella:** I remember reading "Post Traumatic Slave Syndrome" and in the opening she [Joy DeGruy] talked about anybody who does any kind of... She went to Kenya or somewhere in Africa, I hate to be ignorant but that's real. And in the airport there was this thing that was like, "If you do anything wrong, you are subject to imprisonment and hatefulness from your peers." Because the community is so thick, in indigenous communities especially, I could see that being such a tight-knit thing that seeing that is like, "Wow, I better not do that growing up because I could be that person." So it instills fear. It's so horrible! But it's so, I don't know, it's complex.

As a collective community strategy of resisting and reducing potential future harm, how then shall violence be defined and understood? In the wake of such extreme measures of self-preservation, what remains is the trauma that will be felt for generations by all involved.

The following section is the end of the dialogue of the first among overall three roundtables conducted. After my prompt to close the discussion, community stakeholders were invited to discuss take-aways, if any, from the discussion. In uncertain times such as this, the roundtable held much collective provocation as a result of confronting grief and imagining a world that is not yet here.

**Edxie:** I really appreciate this conversation because I've been asked on several occasions to speak with people who do harm, and because of my own experiences I'll have reservations about it, and just not intervene or ignore it. So these days I'm definitely trying to focus and center on transformative justice models or conflict-resolution that is conducive to confronting harm as well as decentralizing that information, because a lot of the times there are people that have had these different experiences, but we just don't know about it. And if we did, maybe we could learn from each other. So I think that that on the forefront of decentralizing our stories when dealing with or confronting harm. I recently tried to help organize a conversation with several different spaces at the first Decornio (*1:46:58.8 sp?*) gathering that happened and it was hard because one of the first people that showed up was somebody that I've seen in our communities as a racist as well as an abuser, so I was like, I don't know if this is the time for us to talk about how we can hold your racism accountable—I'm not really here or ready for that. So I told her she had to leave, plus there were other people that were involved in the scenario that would have probably been triggered by seeing her. So I had to tell her to leave and that we might talk about it more, but I personally felt like that was a lie on my mind. Because I was like, I don't really want to talk about it, I don't really want to have anything to do with racists. Because I don't know if they're low-key nationalists, anarchists, people who are pretending to be in these justice movement when they're low-key fascist or something like that. So I don't have time for that, and [that's] how I'm feeling. That was something that I'm questioning. How are we trying to reform and/or hold racists accountable? I don't know. But the point of this dialogue was for different community centers like La Concha and The Rat Space and (*1:48:33.3 unclear*) different spaces that we're organizing in, is creating at least guidelines that will help us be like, if you break these guidelines we can talk about safer, braver spaces. If somebody makes a mistake or somebody does something oppressive then maybe we feel comfortable with each other enough to actually talk about it versus just shying away from it. [That] is how it has always happened for decades within these movements, spaces, and it kind of feels like this generation is doing the cleaning of that, in terms of people not communicating with each other for such a long time about these internal issues and inter-generational and internalized traumas and oppression. Now it's coming to the surface that since we're all socialized under these systems of domination, we're probably inflicting harm ourselves. So what does it mean to really deal with that versus just sweeping it under the rug? Because I feel like a lot of the times these different models fail; for example, I was also

sitting and involved in the African Peoples of Liberation Tribunal when Taco the person, the leader of the Black Riders Liberation Party...was being abusive to a lot of his comrades within his organization, and it took two decades to actually get to a point where people were giving their testimony. And there [are] really intense [and] serious accounts of abuse and harm. He was sexually exploiting women or sending young girls to make money through sexual exploitation, abusing people like torture, electrocution. It was a lot and he didn't acknowledge this harm that he created, and he just ran away from it. So it was under the scrutiny of this tribunal to say, we're sanctioning you and you're no longer supposed to be in these spaces. And I feel like when it comes to a point where you might have someone who was a sociopath who doesn't acknowledge their behavior and take that harm into account and continues to replicate it, then that's a valid time to sanction people and be like, you're not really allowed to be in any of the spaces that we're organizing in because it's uncomfortable. That was an intense process, I had a lot of criticisms of the process because they called it restorative justice, but again, my thing was if you're going to call it restorative justice, what are you doing to take into account [for] all the people who have left this movement? The movement worked, some of the most down people who were involved in the Black Riders to begin with, what are you going to do for them who are no longer a part of it? Who are scared to opt back into these social justice movements or a movement where, because they're so hurt and harmed by it. Is there any work that's being taken into account to help restore that and possibly get people back or possibly have them working to do the work of helping other people who have been through the same thing? Sorry, that was a lot.

[...]

**Alexander F:** I just want to say I appreciate this space being available, and being able to speak how we feel about these particular issues. It's just freaking awesome. I'm more than happy to do this again with you.

**Chella:** I'm thankful that you all let me come in late. I was very upset that I came in late, but thank you all. And I was very thankful for this space and the deep conversations of getting into the grips and not just cutting off stuff.

**Loba:** I'm thankful too, and also you said something, "disposable," because I feel like what is disposable? Why are human beings disposable? Are human beings disposable? And I want to be like, no, but I'm like, yes, they are. (*laughs*) Do I have to change that, or is it okay to be like, "This dude, white, what are you doing in this world that's positive? Are you disposable? Are you not? Can we make you be useful for something?" So just thinking about who's disposable, should I be like, nobody's disposable?" I don't know, just thinking about it. I have very violent thoughts sometimes of people, I mean horrible people. And is that bad? Or is it okay?

**Chella:** I get you. I think it's okay.

**Edxie:** I think it's fine. That's how you cope.

**Rio:** I appreciate everybody's raw and openness as well, so thank you. Because rawness came out, and it's awesome to have this exact group right here, so thank you also for putting this together.

**Ren-yo:** You all put it together.

**Rio:** [...] I did want to say that I agree with you as far as accountability. Damn, we are not perfect, and there are definitely places where I'm like, damn, I really fucked up and that was the fill-in-the-blank of bad things. Yes, I would rather be in a world where I'm held accountable and help to transform, do the healing work for myself and do a soul-shift, and I am down for that for other folks too. That is my first and foremost response. How do we care and love for people who have done some really traumatic-ass shit to other community members? Because really the most effective way to answer that is community accountability, [but] how do you actually help that person go through it? Because I think about accountability both ways, that person being accountable, but the community also being accountable to helping that person do that soul-shifting work because they clearly can't do it themselves. At one point I clearly couldn't do that work myself, I just couldn't, because of the pain that I received and then how that fucked my mind up or my spirit. So I do feel like accountability goes both ways. I definitely want to shift towards a culture where grassroots organizations, communities, families, we're thinking about accountability in that way where it's both ways. You're in this community; you're not by yourself. All of us, we all somehow have to shift that. I just wanted to add.

**Ren-yo:** (2:02:23.8) Some of the things I hope we can think about if we do come back together is when we say accountability, do we actually mean something totally more radically different and beautiful? Because a lot of accountability has come from the state's conception of accounting for things, statistics, data, things you all critiqued in so many ways today. (group: *word, yeah*) Is it something more complicated and holistic? And, then, also, "disposability" [is] another big thing. This is a big question for me, is for one person, disposing that person [of] their safety? But [doesn't that] mean there isn't community around that person that [needs] to move up to actually hold space for them because they can, because they have the privilege to do so? Who has the means [and] capacity? Persons who [have] never been harmed by that individual, if anything, maybe they've benefitted from that person in the past. Whatever it might be, there's different ways to think about disposability that don't make it just about is it morally right or wrong to protect myself? Because it doesn't have to be just an ethical question, it could be about your life. So thank you so much; they're definitely going to kick us out. I encourage everyone, we're ending now at 3:15, I'm going to hit...  
(*End of audio*)

Accountability, like abolition, is consistently described as a process of undoing and being undone. Weaving together questions of anti-Black racism, settler colonialism, carceral thinking, objects/subjects of criminality, the very telos of crime and law, the roundtable offers a polyvocal and unwieldy account of the endless ways in which the political imagination of QTBIPOC requires a mode of collective safety and self-determinancy that refuses euphemistic adages and logics like LAPD's "To Protect and Serve." Rachel Herzing writes, in reminding us of where we go next if towards abolition as process:

We need to keep dreaming, and we need to dream big. Even if policing is not magical, it casts a spell that prevents us from thinking that it's possible to imagine a world without it. We need to begin by asking for what we want, not simply what we think we can get or what we're told we're entitled to.<sup>54</sup>

The hope is that the roundtable, both as a practice of the past for those in the room and not fully captured here, offered/offers a kind of emergence of entangled feelings towards some kind of liberation— one in which transformation and transformative justice are undergirded by the need for change, fluid turbulence, and the practice of interdependence. In adrienne mare brown's recent poetic 'self-help, society-help planet-help' text *Emergent Strategy: Shaping Change, Changing Worlds*, she writes, in describing principles of emergent strategy (abbreviated):

*Change is constant. (Be like water).*

*There is a conversation in the room that only these people  
at this moment can have. Find it.*

*Never a Failure, always a lesson.*

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<sup>54</sup> Herzing, Rachel. "The Crisis of Broken Windows Common Sense" in *Policing the Planet: Why the Policing Crisis led to Black Lives Matter*, ed. Jordan T. Camp and Christina Heatherton, London, Verso Books, 2016.

*Trust the People.*

*Move at the speed of trust.*<sup>55</sup>

The roundtables are a reminder against the carceral clock that speculates that there will always be time owed or time to be served by the particular many; a carceral calculator that hedges bets on coercive plea bargains versus multiple life sentences; a carceral commonsense that demands the accelerated control of life and death through an infinite biopolitical multiplication of crimes, enhancements of crimes, convictions and being convicted; a carceral actuarial algorithm that only breeds distrust, suspicion, despondency and the inevitability of premature and social death.

The roundtables are a reminder of the continuation of conversations we've had and will have, that transform our shared experiences of speed and time. *We must move at the speed of trust* perhaps is a becoming more nonlinear and non-numerical, to refuse to our being as atomized datum and instead the becoming glitter—that which is already plural. Trust *as* speed opens up the possibility of alignment with the present, not time, but present as presence, or accounting for one another in uncertain terms. May we always be inter-formed (between/among) by a process of diverging voices constantly breaking open and free the scaffoldings of our political imagination.

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<sup>55</sup> brown, adrienne maree. *Emergent Strategy: Shaping Change, Changing Worlds*. Chico, CA: AK Press, 2017, 41.

## CHAPTER IV

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## **CONCLUSION: The Motions of Re-Form, Trans-form, Life-form**

In the conclusion of Jin Haritaworn's *Queer Loves and Hate Others*, they write, "How can we fail to be cuddly for white supremacy? What energies become available if we refuse to give warmth or enact vitality for a familiar, national and global community that is predicated on such murderous inclusions?" The issue here in this work is not about semantics, whether we call bias-motivated violence 'hate crimes' or refuse to call them hate crimes all together. Rather, this research reveals the ways in which the colloquialism of hate crimes is proportional to our political imagination concerning our reliance on the state to intervene, process, determine, and both execute and enforce penalty—the subliminal and sublime commonsense of both together and separately, "hate" and "crimes." We must continue to unpack the many compounded ways in which the political geography of Los Angeles, in its white supremacist gay-friendly multiculturalism, and in its boastfulness in being a city that is only successful, like the Olympics, is both exceptional and yet ubiquitous in its ability to be enclosed, fortified and triumphant by its paramilitary police force and expansive carceral reforms.

What exactly can a hate crime do, even in statistically making truth-claims and evidence of the risks faced by Black trans women on a daily basis? In the cases of Aniya Parker and Deshawnda Sanchez, having their cases be pursued as a hate crime was a demand on behalf of community leaders and family that their lives not only be recognized in terms of the risks and courage of living Black, trans\* and woman, but that stricter punishment in a legal juridical level, in the public sphere, might provoke some

form of cautionary tale so that such forms of violence could not happen so easily again. Likewise, the conversation of asking law enforcement to investigate, to treat their loved ones case as *real*, as *mattering* as not something that should be understood as expected and another unfortunate statistic, these were the pleas for a more “thorough investigation.” We have to be able to imagine that such demands also exist as a means to redistribute police power to investigate the harm felt and experienced by those witnessing and literally dealing with affective and material consequences of the 2014 anti-trans\* premature deaths of Deshawnda, Aniya and Zoraida. The plea for the register of “hate crime” was a plea that such a violence would not go unregistered, unseen, forgotten and, more than not, blaming the victim for contributing to their own fatal demise (in the cases of many sex workers and transgender women before this moment in time, eg; Gwen Arajo case, transgender moral panic claims.) In the grand scheme of things, legal protections of even sexuality and gender stand as a new juridical phenomena, history of hate crimes, and thus the constant technological reform efforts in better the intake, gathering, aggregation of violence as enumerated in statistical crime data. However, even with the most dutiful state sanctioned investigation and most illustrative narrative of ones life beyond statistic, the survivor and their loved ones are rarely compensated in way that could even begin to suggest a sense of full justice. In order to push beyond feelings of impossibility or prolonging conditions of carceral entrapment, how might we provoke other ways of learning, archiving and teaching one another new abolitionist possibilities—particularly situating the voices, leadership and relationship with those behind prison walls?

The science and the fiction of data, particularly social data, and crime/carceral data, remains a political cultural state-(re)production that seeks to tell a narrative in which anti-violence solutions depend on state-solutions. Even in its peak accuracy, data on violence will always violently consolidate/erase differences for the sake of consistency and uniformity, ability to be grown and be extractable metadata to instruct and deliver diagnosis for technologizing crime prevention. Transformative ethnography has no interest in being reductively *trans-figured* into social science data. Rather, resistance/refusal knowledge production can transform and make less certain the underpinning logics that consider unruly knowledges/peoples as problems that need improvement via uniformity, extraction, generalization etc. These questions are particularly important for willfully unmanageable communities subjugated to the realm of unruly knowledges, without uniformity, certainty or assuredness— those who eschew racial capitalism’s dichotomies of idleness and idolatry. In engaging with the process of condoning or reporting hate crimes, those directly targeted by law enforcement and street/domestic violence are not simply opting into or refusing participation w/ the criminal justice system. Our work, beyond conditional logics of either/or, requires a renewed attention to carceral-coersive conditions that enclosures of space for considering new life-form over re-form possibilities.

1. CRITICAL ENGAGEMENT WITH THE TERMS OF QUEER/TRANS\* QTBIPOC

ANTI-VIOLENCE

2. SURVIVAL AGAINST COERCIVE CARCERAL ORIENTATIONS

3. ABOLITIONIST STRATEGIES OF ANTI-REFORM REFORM

4. ORGANIZING, GATHERING, GENERATING COALITIONAL DIFFERENCES AS

PROCESS AND ACTION

5. ACCOUNTING FOR EACH OTHER, BOTH THERE AND NOT