Mapping the Carnival:
conceptions of public safety in conservative prison policy
and in the work of prison abolition

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Abstract

In this thesis I examine a punitive moment in Canadian corrections policy and practice that began in 2006 with the Conservative Party's election to office. I consider this moment through its founding policy document, *A Roadmap to Strengthening Public Safety*. The *Roadmap*'s key punitive arguments are based in its construction of a Changing Offender Profile, a term that draws upon the archetypal colonial constructions of the lawless Native offender and the law-abiding Canadian national. These constructions still inform dominant notions of 'prisoner' and 'public' today. In contrast, the political theatre piece *Parole Sans Parole* rejects the neoliberal citizen-making project of both the *Roadmap* and parole policies. It reverses positions of power through techniques of the carnival, linking the physical and political safety of the non-incarcerated to the safety of the incarcerated. This performance strategy radically alters the position of the public in relation to the lives of prisoners and parolees and the issues they face in the current state of Canadian imprisonment.

Dans ce mémoire j'examine une période punitive de la politique correctionnelle Canadienne qui a débuté en 2006 lorsque le Parti Conservateur a été porté au pouvoir. J'étudie cette période par le biais de son document politique fondateur, *La Feuille de route pour une sécurité publique accrue*. Les arguments punitifs clé de la *Feuille de route* sont basés sur sa construction du concept de « profil de contrevenant en pleine évolution », une idée qui tire ses sources des archétypes colonialistes du contrevenant amérindien hors-la-loi et du citoyen

canadien profondément respectueux de la loi. Aujourd'hui, ces constructions continuent à influencer les notions dominantes de ce qu'est un « prisonnier » ou un « public ». En opposition avec cette vision, la pièce de théâtre politique *Parole Sans Parole* rejette le projet néo-libéral de créer le citoyen idéal, projet qui sous-tend la *Feuille de route* et les politiques de mise en libération conditionnelle. La pièce utilise des techniques du carnavalèsque pour renverser les positions de pouvoir et montre que la sécurité physique et politique des personnes en liberté est étroitement liée à la sécurité des personnes incarcérées. Cette stratégie théâtrale transforme radicalement la position du public en rapport avec la vie des personnes détenues et placées en libération conditionnelle et les enjeux auxquels elles sont confrontées dans l'état actuel du système carcéral canadien.

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Introduction. The punitive shift

In this thesis I examine *A Roadmap to Strengthening Public Safety*, an ideologically conservative policy document that Correctional Service Canada (CSC) commissioned in 2007, and adopted as official policy in 2008. I argue that the *Roadmap* ushered in a particularly punitive moment in Canadian corrections policy and practice. In Canada, federal corrections policy and sentencing procedures have for decades been rooted in multiple, competing motivations that, together, constitute a finely tuned "culture of restraint" ("Countering Punitiveness," 344). One of the recent additions to the mix has been the political exigency of 'managing risk.' The *Roadmap* works within several of the philosophies that contribute to Canada's correctional culture, but primarily functions in a mode of conservatism and punitiveness.

The political atmosphere within which the *Roadmap* circulates is conservatively charged as well. Dominant political rhetoric is tough-on-crime, punitive crime bills have multiplied, and rates of incarceration are significantly increasing for the first time in 40 years. "After much deliberation," the *Roadmap* opens, "the Panel believes that this Report charts a roadmap that is a transformation of the way in which CSC does business. This is driven in large part due to the changing offender profile" (*Roadmap*, v). The material effects of such a proposed transformation have yet to be determined. Yet in its early stages, the *Roadmap* signals a conservative and punitive shift in federal policy and rhetoric. Though this shift demands attention and vigilance, the *Roadmap* is also a recognizable version of long-held, mainstream perspectives on crime and

punishment. Whether liberal or conservative, national debates on incarceration that take place in the mainstream media and in policy documents invariably ground themselves in colonial constructions of the criminal and of the Canadian public, investing in the notion that multicultural, middle-class settler citizens are the only individuals deserving of protection.[1] The *Roadmap* builds upon this tradition, distinguishing itself both in its severity and in its determination to ignore its own history.

At the same time, there are alternative Canadian stories about criminal justice and corrections being told today. The groups and individuals that tell these stories have smaller platforms from which to speak than those that are afforded to policy makers and their supporters. In this thesis, I first analyze the history and political investments from which the *Roadmap* developed in order to then analyze the work that prison abolition groups are doing to shape public discourse on criminality and incarceration. My thesis therefore begins with the story of the *Roadmap*, and the ways in which it draws upon dominant, colonial conceptions of criminality, the Canadian public, and public safety.

After identifying the discursive underpinnings of this policy document, I then examine how a key prison solidarity group has responded to the *Roadmap*

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[1] Throughout my thesis, I refer to the construction of the idealized Canadian member of 'the public' as a multicultural, settler, middle-class subject (or variations on this theme). I base this formulation upon Thobani (2007) who explores the ways in which the respectability of Canadian nationality was built upon the colonisation and denigration of Native people. Since the 1970s, dominant racist discourse in Canada has operated in the language of liberalism, multiculturalism, and neoliberalism, as Canada assumed a role of benevolent tolerance to any and all wealthy migrants who wished to reduce their political differences to cultural differences and ascribe to white, Canadian, neoliberal values. For more thorough discussions of this argument concerning multiculturalism, see Razack (2008), Ahmed (2007/8), and Fortier (2008). For a discussion of neoliberalism, please see footnote 1 in Chapter 2.

and the larger political shifts of which it is part. In particular, I am interested in the ways activists destabilize and reformulate the meanings of those key terms that appear in the *Roadmap*. The different meanings that prison abolition activists attach to these concepts are based upon a politics of remembering that may open a way out of the injustices of incarceration (Ahmed, 200). A politics of remembering entails repeating the stories of colonisation and tracing through their enduring effects. It is only in doing this work of remembering, work the *Roadmap* fails to do, that one understands the urgency to create meaningful alternatives to dominant perspectives on crime and punishment. Prison abolition groups rearticulate criminality, Canadian-ness, and public safety at the same time as they "disarticulate crime and punishment, race and punishment, class and punishment, and gender and punishment" (Davis, 112). From such a standpoint, they then propose alternatives to incarceration that might avoid reinscribing the injustices of colonialism and neocolonialism.

The tension between forgetting and remembering is one of my main conceptual points of departure in the thesis. According to Nietzsche, it is only by actively forgetting one's pain that one can move forward to a more just future. The first principle of making memory, he claims, is the "*mnemo-technique*" – retaining the memory of something by burning it into oneself. It is only that which continues to "*give pain*" that can be remembered (Nietzsche, 37). Holding onto the past signifies holding onto injury and pain, "from which one can immediately anticipate the degree to which there could be no happiness, no cheerfulness, no hope, no pride, no *present* without forgetfulness" (35). For Nietzsche, the only

path to the present is one of strategic forgetfulness, the ability to temporarily separate oneself from the troubles of one's consciousness and achieve a stillness of mind.

Bonnie Honig reinterprets Nietzsche's argument to differentiate between acts of remembering that trap the self in the past, and those that move the self forward into the present. Honig distinguishes between Nietzsche's condemnation of those who blame others for their misfortunes and thus remain in the past "passively and fatalistically," and those who are able to affirm their pasts "creatively and redemptively" (Honig, 52). In this way, "Nietzsche envisions a self that continually renegotiates its relation to the past that constitutes it" (54). The self that lives in the present and moves toward the future need not forget its past but should rather continually renegotiate its relation to its past.

Affirming one's past creatively and redemptively may very well be difficult and painful. According to Sara Ahmed, it requires a commitment to bring the pain of the past into one's political actions, thereby enabling "different kinds of remembrances" (Ahmed, 33). Remembering, then, would not paralyze one's ability to 'move on' but would rather move one forward into a present that is radically different from the space inhabited by those who strategically forget in order to avoid the pain of past injuries. In this thesis, I think through these positions with respect to the colonisation of Canada. From one perspective, colonisation was a set of historic experiences – legal statutes that are no longer in place, residential schools that no longer exist outside of memory and documentation. Yet if colonial law is a "permanent agent of…relations of

domination" then the past violence of colonial law remains a lived reality in the present (*Power/knowledge*, 96). Active forgetfulness is therefore impossible, and also cruel.

Though governments and social agencies may recognize the injustices of colonisation, they seem to locate those injustices, and the experiences of them, in the past, as if they had little bearing on people's lives in the present (Ahmed, 200). The effects of the colonisation of Indigenous people in Canada are neither in nor of the past. They continued through the residential school system and the Sixties Scoop (the wide-scale adoption of Indigenous children enforced by Children's Aid over a period of thirty years), and they are preserved in the relations of domination that exist on reserves and among ghettoized Indigenous populations in cities today. For this reason, Patricia Monture calls for "historical honesty" that may yield the "opportunity to deal with all of the layers and multiplications of oppression that permeate Aboriginal lives and Aboriginal communities today" (Monture, 26). This injunction echoes Ahmed's contention that recognizing the injustices of colonisation "as a history of the present is to rewrite history, and to reshape the ground on which we live, for we would recognise the ground itself as shaped by such histories" (Ahmed, 200). The work of memory's repetition can move a person into the space of the present rather than keeping them mired in past injuries.

From a more historically honest present, Monture and Ahmed envision a future that would encourage healing and justice. The pain of making memory can therefore be productive and potentially transformative, while efforts to ignore the

violent legacies of colonialism deny and consequently reinscribe the injuries of colonisation. In this light, it may be that strategies of willful forgetting prevent collectives from addressing the legacies of past violence and oppression as they are lived in the present. Forgetting, then, is both unhelpful and itself a form of violence.

The *Roadmap* represents a significant act of willful forgetting, and a politically sinister one at that. The Review Panel that produced the *Roadmap* chose to forget significant aspects of the colonial historical present in which its text circulates, and this choice directs the course of its argument. In its rendering of history, the *Roadmap* willfully forgets the construction of the lawless Native offender upon which the law-abiding Canadian subject was built and which endures today in racist constructions of criminality. It forgets the colonisation of Indigenous territory that was produced via the construction of settler subject and Native Other. In its formulation of a Changing Offender Profile, it participates in the work of profiling that produces an "alien other" (Garland cited in Rose, 185). These strategic acts of forgetting enable the *Roadmap*'s Review Panel to reinscribe those same injustices within a punitive discourse of profiling, a neoliberal language of 'accountability,' and a wider political context of securitization and risk management. Forgetting, or ignoring, past injustice is a privilege that the *Roadmap* can indulge, so long as no one holds the Review Panel accountable to its history.

In contrast, the political theatre piece *Parole Sans Parole* that I discuss in Chapter 3 remembers and works through the damaging effects of the historical

parameters of prison discourse. In conducting what Ahmed calls "the work of exposure," *Parole Sans Parole* consciously calls forward and dismantles racist and classist constructions of criminality (Ahmed, 200). The play then proposes categories of subjectivity for both prisoner and public that, if taken up, would destabilize our current systems of incarceration and parole supervision.

As a first step along this process of analysis, I will introduce the *Roadmap* and then situate it in the context of historical trends in Canadian sentencing, commission reports, and political party statements. Against this backdrop, the exceptional status of the *Roadmap* becomes visible, as do the conditions that made such a document possible.

Introducing the *Roadmap*

The *Roadmap* has its origins in the Conservative Party of Canada's platform commitment to "Review the operations of Correctional Service Canada with a view to enhancing public safety" upon winning the 2006 election (cited in Jackson and Stewart, 4). In April 2006, then Minister of Justice Vic Toews stated, "I believe that it is time to get tough when it comes to incarcerating violent offenders, and I applaud the efforts that have been made to put an end to what has been referred to as 'Club Fed'" (4). Club Fed was a campaign launched by the Canadian Professional Police Association in 2002 that lambasted CSC for treating prisoners so well that prisons might as well be country clubs (Elliott, 206n8). The term circulated and reverberated throughout Canadian corrections discourse, helped along by former (Conservative) Ontario premier Mike Harris' 2003 *Con Game: The Truth About Canada's Prisons*, a book that sought to expose the ways

in which Canada's "prisoner-friendly reforms" have created such conditions that, as one prison guard says, prison "went from being a [prison] to a kindergarten" (3, 347). The outrage that the Club Fed campaign provoked in the Canadian public is significant. Located in postcolonial and neocolonial tropical countries, Club Med is a premier resort for upper class Western vacationers, with high walls and self-contained economies that effectively separate the poverty and danger of the host country from the wealth and safety of the resort itself. In some respects, the Club Med comparison encourages the 'ordinary Canadian' to feel the same sense of outrage and injustice when thinking of prisoners enjoying their lives as they might feel when they imagine people richer than themselves enjoying their vacations.

Of course, there are no well-tailored waiters delivering cocktails to prisoners poolside, even in the most relaxed of Canadian prison environments. Rather, Mike Harris' so-called Club Fed includes prisoners who have begun to read, understand, and demand their constitutional rights as legislated in the *Corrections and Conditional Release Act* (*CCRA*). In describing Club Fed-type conditions in one particular prison, Harris writes, "Exceedingly fine distinctions were made by inmates who studied CSC's own rules and regulations as carefully as if they were preparing an appeal of their cases" (37). From this statement, it would seem that Harris regards the inmates' study of the *CCRA* and their attention to detail as threatening and somehow deceitful. Harris' tone becomes yet more indignant when he speaks of the material goods provided for prisoners, such as the Christmas Social at Millhaven Prison in 1998 when "a Sony PlayStation rather than a no-name substitute was approved for the social by the Program Board," and

"Capri Pizza was caterer of choice for the festivities" (37). Prison, for the Canadian Professional Police Association, Mike Harris, and others, should never be a place where prisoners have the right to know the rules by which they are governed and the ability to question them, nor the possibility to engage in brand-name entertainments to occupy their time. Knowledge and recreation, in their view, are privileges rather than rights.

In this political context, then Minister of Public Safety Stockwell Day (who ran for Prime Minister in 2000 as leader of the conservative Alliance party) commissioned five individuals to conduct a comprehensive review of CSC's operations within a deadline of 50 days, later extended to six months. The five Review Panel members produced the *Roadmap* by October 2007, and CSC swiftly adopted it in June 2008. Intimately tied to the Conservative Party of Canada, the *Roadmap*'s Review Panel did very little to seek outside opinion. The Panel was chaired by Robert Sampson, who was a member of the Ontario Legislative Assembly and the Government of Ontario Cabinet under Mike Harris from 1995 to 2003, serving as Minister of Correctional Services in Ontario from 1999 to 2002. There were no NGOs or academics consulted in the creation of the Panel's mandate. The Panel members held hearings and accepted written submissions during their six months of research and review but provided no space to comment upon their recommendations after they had completed their report. One year after its publication, CSC officially adopted the *Roadmap* in its entirety, stating, "CSC is once again starting a new chapter – this time in response to the CSC Review Panel Report…Responding to these recommendations will position

us well for the future to help ensure we achieve excellent public safety results in an integrated and consistent manner" (Don Head, cited in Jackson and Stewart, ix). Correctional Service Canada's new direction is thus directly based in the recommendations of the *Roadmap*, a document that was written by and for conservative political leadership.

Alongside CSC Commissioner Don Head's announcement, the Conservative government introduced 46 tough-on-crime bills between 2006 and 2011 ("Tough-on-crime from Time to Time"). For example, various sections of the *Tackling Violent Crime Act* came into force in 2008. The *Act* authorizes longer mandatory minimum sentences for different types of gun crimes, and the "increasing use of indefinite sentences for repeat violent or sexual offenders" (MacQueen). Expecting to dramatically lengthen prison sentences through bills such as this, the federal government embarked upon a large-scale prison expansion plan. As academics such as Justin Piché fought to gain access to unpublicized documentation of the government's prison expansion plans, they passed the information they did secure to the media. By 2009, most mainstream newspapers were publishing reports of mushrooming prison construction budgets, and controversies erupted.[2] Media mogul Conrad Black, a recent sojourner in prison himself, spoke out against the *Roadmap* and its expected consequences in

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[2] Since 2009, the number of articles in the mainstream media guessing at, condemning, or supporting Harper's tough-on-crime agenda has skyrocketed. For examples, see "Tory Prison Policy 'Wedge Politics,'" *The Globe and Mail*, Sep 24 2009, http://www.theglobeandmail.com/news/politics/tory-prison-policy-wedge-politics-study/article1300457/ ; "Tough-on-crime but Soft on Logic," *The Toronto Star,* March 19 2010, http://www.thestar.com/opinion/article/781988--tough-on-crime-but-soft-on-logic; "Mandatory Minimums for Drug Crimes are a Giant Step Backward…," *The Globe and Mail*, November 17 2010, http://www.theglobeandmail.com/news/opinions/opinion/mandatory-minimums-for-drug-crimes-are-a-giant-step-backward-for-canada/article1801674/.

The National Post, Canada's conservative heavyweight in print journalism (that, incidentally, Black founded and owned until 2000). Referring to the *Roadmap*, Black writes, "It is painful for me to write that with this garrote of a blueprint, the government I generally support is flirting with moral and political catastrophe" (Black). Conrad Black's choice to publicly rout the *Roadmap* hints at the dissatisfaction that many of Harper's constituents must have been feeling regarding the Conservative Party's prison policies.

What prompted such a staunch conservative as Black to censure the *Roadmap* as "the self-serving work of reactionary, authoritarian palookas, what we might have expected 40 years ago from a committee of southern U.S. police chiefs"? Why does he view such punitive measures as "counter-intuitive and contra-historical" (Black)? What moral and political force does one gain, and which histories are evoked, by distinguishing the *Roadmap* from past policy papers? Though its misuse of statistics and historical inaccuracies deserve the shock and outrage that Black articulates, the *Roadmap*'s recommendations are at the same time historically predictable and politically intuitive in the larger context of mainstream corrections policy and strategic forgetting of colonial violence. It is only in understanding these distinctions that one can understand the work and the force of the *Roadmap*.

Both sides of the mediatized prison expansion debate have claimed the moral and political high ground. Vic Toews (now Minister of Public Safety) remained confident that his party's concern for the public good and its prison expansion plans were one and the same. "Our government is proud to be on the

right side of this issue – the side of law-abiding citizens, the side of victims who want justice" Toews said, as the Conservative Party announced one aspect of its expansion plan on October 6, 2010 ("Tories Announce $155.5M prison expansion"). Conservative MP Laurie Hawn echoed this sentiment, assuring CBC viewers that the Tories have "listened to Canadians, who are pretty aware of what's happening on our streets" ("More Prisons to be Expanded").

'Canadian blandness'

The *Roadmap* marks a meaningful punitive shift for politicians and experts alike. The document departs from what criminologists Cheryl Marie Webster and Anthony N. Doob call Canada's "official culture of restraint" ("Countering Punitiveness," 344). Prior to 2005, Webster and Doob argue, Canada's rates of incarceration remained stable over a period of 40 years due to political, historical and cultural factors that combined to mitigate the punitive rhetoric that so engulfed the UK and the U.S. in the 1980s. Since 2005, however, "we have…seen signs of the politicization of crime, the reduction in reliance on expert advice and a growing promotion of prison as an effective solution to crime" ("Maintaining Our Balance," 25). The imprisonment rate in Canada rose from 103 to 112 per 100,000 residents between 2005 and 2008, a rise that, as Webster and Doob note, might not be particularly significant if not for shifts in the political climate and policy frameworks that also occurred in those three years.

The federal elections of 2006 took place "at a time when crime was particularly salient, in large part because of a single highly publicized murder of a

young white woman in the shopping area of downtown Toronto" ("Maintaining Our Balance," 22). Locating the increasing politicization of crime in a bid to win votes for the election, Webster and Doob argue, "all three [federal Anglophone] parties recommended – for some of them, for the first time – the toughening of penalties…the (significant) change is that they are no longer promoting moderation or balance" (22). The change in rhetoric, then, signaled a generalized shift from a language of restraint to one of 'prison works' for all three major Anglophone federal parties, that is, for the Conservatives, the Liberals, and the New Democratic Party (NDP) – the Bloc Québecois remained the resolute "voice in opposition" to the Conservative agenda, consistently emphasizing rehabilitative rather than punitive legislation (Piché).

Jane Creba was fifteen years old when she was shot dead, having unknowingly stepped into the middle of a gang-related gunfight on Yonge Street in downtown Toronto. It was Boxing Day 2005, and the 2006 federal election was at its midpoint. According to Darrell Bricker, CEO of Ipsos Reid Global Public Affairs, the incident "was one of those lightning bolts….It did have an effect. I tracked it" ("Vote Canada: Talk Tough Wins Suburbia"). Bricker is referring to the shift in popular support for Conservative "promises to get tough on guns, gangs, and drugs" in the wake of the murder ("Vote Canada"). This highly publicized murder may have instigated a change in rhetoric, but the reasons behind such a significant shift must run deeper as well.

Historically, the Canadian corrections strategy stands in stark contrast to the incarceration strategies of the U.S. and the UK. Why did Canada resist mass

incarceration during the 1980s and the 1990s (in practice if not rhetorically), only to embrace the 'prison works' philosophy in 2005/6? Webster and Doob provide a valuable overview of Canada's 'culture of restraint' in their article "Countering Punitiveness: Understanding Stability in Canada's Imprisonment Rate" (2006), as well as in their unpublished chapter, "Maintaining Our Balance: Trends in Imprisonment Policies in Canada" (forthcoming). My analysis here draws on these papers, as well as Michael Jackson and Graham Stewart's counter-report to the *Roadmap* entitled *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*, to craft a narrative of Canadian corrections history over the last 40 years that is critical of imprisonment and that establishes the shift of 2005/6.

According to Webster and Doob, Canadian legislation and sentencing procedures reveal Canada's tendency to "talk tough" yet "act softly" ("Countering Punitiveness," 332). For instance, Parliament introduced punitive legislation in the 1990s that had remarkably little effect on imprisonment rates. Indeed, rates of incarceration in Canadian federal institutions have remained relatively stable since the 1960s, hovering around 100 per 100,000 residents – a statistic that Webster and Doob characterize as depicting "Canadian blandness" (331). (Here, Webster and Doob are contributing to a national discourse of 'being boring' that Canadians seem to both cultivate and resent, a narrative that certainly aids in the denial of culpability for all racist and imperialist practices in which the Canadian

state participates.[3] I will address the myth of 'Canadian blandness' in my next chapter.)

Webster and Doob list a host of factors that may have kept the rate of imprisonment in Canada stable throughout a period in which the U.S. and the UK, Canada's closest cultural and economic counterparts, have incarcerated its citizens at an alarming rate. Among them is the contention that Canadian sentencing policies did not have the same radical shift in purpose from rehabilitation in the 1970s to punishment in the 1980s as did the U.S. and the UK because Canada's "policies have historically been guided by the notion that multiple (and presumably equally acceptable) purposes of sentencing exist and that judges are responsible for choosing the most relevant purposes for each case" (338). In this way, the purpose of sentencing in the minds of both legislators and the judiciary has never been either to punish or to rehabilitate but rather has been dependent upon the particular case at hand.

This flexibility in purpose is accompanied by the independence of sentencing judges to exercise that flexibility. Judges are appointed by the federal government and are thus far less accountable to the public than they would be if they were elected. Though they are appointed by the federal government, judges

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[3] For example, travel blogger Eva Holland wrote in January 2009, "It's time for me to acknowledge a painful truth: many people think that my country is boring. A 2007 study showed that most young Americans view Canada as an 'average' or 'boring' place to visit, and this past summer, even an official from the Canadian Tourism Commission found herself describing Canada's 'vanilla pudding' reputation. Canada is seen as being 'safe and nice,' she told Forbes Traveler, 'like the girl next door—not the hot chick you'd want to go on vacation with.' Well, setting aside my natural Canuck modesty, I'm here to tell you that Canada *is* that hot chick" (Holland). In this passage, Canadian Eva Holland both boasts of and rejects Canada's naturally boring, safe and nice character. While she desires a sexier Canada, there remains evident a pride in Canada's unspectacular nature. It is also clear that this is the image that Canada wishes to project to the world, as officials from the Canadian Tourism Commission somehow 'find themselves' defining Canada as 'the girl next door' to a popular travel guidebook.

rarely exhibit allegiances to party lines. Given the flexibility of their sentencing purposes and their relative insulation from public opinion, criminologist Martin Friedland argues that "the judiciary has – perhaps with the federal government's tacit approval – become the dominant player in the development of the criminal justice system" (Friedland, cited in "Countering Punitiveness," 347). Canadian judges have historically acted as a mitigating factor in times of punitiveness, as they "appear to lack enthusiasm for more punitive responses to crime and criminals" and will therefore tend to interpret legislation accordingly ("Maintaining Our Balance," 16).

Canadian politicians did succumb to tough-on-crime discourse in the 1990s, and have certainly passed punitive crime bills in the last thirty years. Yet Webster and Doob, along with Jackson and Stewart, argue that Canadian politicians have had a similar distaste for punitive responses as judges have. Politicians seem to have held to the same standard of versatility as federal judges do in terms of how they think about the purposes of punishment, alternately referencing rehabilitation, deterrence, and punishment in their political speech. Whatever the particular balance struck, however, there has been "a long history of recognition by Government and government appointed commissions of the overuse of incarceration" in Canada ("Maintaining Our Balance," 10). From the Ouimet Committee of 1969 to the Arbour Report of 1996, official commissions have repeatedly urged that prison sentences be a last resort.

Moving into the 1990s, politicians and commissioned experts expressed their commitment to prevention policies and incarceration alternatives,

commitments that often crossed political lines. Webster and Doob note that the platforms of all political parties in both the 1993 and the 1997 federal elections illustrated a "lack of politicization of crime in Canada," as even the Progressive Conservative party put forward its tough-on-crime platform with the assertion that "an ounce of crime prevention is worth a pound of cure. Keeping young people in school…and education of young people in general about the consequences of crime, do more to prevent crime than any other kinds of action" (cited in "Maintaining Our Balance," 19). Remarkably, then, the narrative of Canadian corrections legislation, sentencing practices, commission reports and sentencing policy communicates a historical and embedded "culture of restraint in the use of incarceration," even through periods of tough-on-crime penal populism and correspondingly stringent legislation ("Countering Punitiveness," 344).

In comparison to the mass incarceration strategies of the U.S. and the UK in the 1970s and 80s, it is meaningful that federal incarceration rates did not increase dramatically in Canada during that same time period. Yet federal rates of incarceration did not decrease in the past 40 years either, despite the many reports and commissions urging restraint in sentencing procedures. Rates of imprisonment began to rise in 2005, coincident with a shift to 'tough talk' and the introduction of a slew of punitive crime bills. If passed, many of the laws are expected to rapidly increase the prison population – though given the influence of punishment-wary judges on the real numbers of sentencing, the effects of such laws are difficult to estimate until more time has passed.[4] In some cases, the

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[4] Indeed, this remains the case with what was thought to be the Conservatives' major coup of 2010, the *Truth in Sentencing Act*. Prior to the passing of the *Act*, it was standard procedure for

Conservatives might intend the legislation to appear punitive without amounting to significant changes, repeating the historical tendency to 'talk tough' and 'act softly.' For instance, Webster and Doob discuss that the legislation establishing higher mandatory minimum sentences for certain gun crimes will have minimal impact, "only affecting a subset of serious offences involving firearms" ("Maintaining Our Balance," 9).

The bluff and bluster of ideological conservatism might be just that, and it may be that even the Conservatives themselves do not expect much to come from their barrage of tough-on-crime proposals. Yet with incarceration rates on the rise, this punitive shift does not seem rhetorical. With Harper's majority re-election in May 2011, the Conservatives gained control of both the Senate and the House of Commons, and Harper immediately spoke of pushing an omnibus crime bill through Parliament. Now slated for the fall 2011 Parliament session, the crime bill

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Canadian judges to issue a 2:1 credit to those that had been in pre-trial custody, reducing their post-sentencing jail time by twice the amount of time they had spent in pre-trial custody. As pre-trial prison conditions are so much more difficult than post-sentencing prison life, one day spent in pre-trial custody was considered equivalent to two days spent in prison post-sentencing. Coming into force in early 2010, the *Truth in Sentencing Act* reduced that standard practice to a 1:1 ratio unless "the circumstances justify" an increase to 1.5:1. This new legislation was expected to increase the prison population, as people's sentences inflated to reflect the new requirements. Yet when two lawyers challenged the constitutionality of the law in regards to their client's case, the judge's ruling shifted the force of the law yet again. Skilfully worded, Ontario Court Justice Melvyn Green's February 23, 2011 decision was lauded as a victory by both the Conservative party and the defence bar. Justice Green ruled that the *Act* was indeed constitutional, marking his decision as a victory for the Conservatives. Yet he also ruled in favour of a 1.5:1 ratio for the defendant, Marvin Johnson, setting a precedent in which "the circumstances don't have to be that exceptional for 1.5 to be awarded, and the focus should be on how unfair it is that the opportunity exists for two people with the same cases to be treated differently" (Drummie). This ruling "could very easily become the leading decision interpreting where the truth lies in Canadian sentencing law," said one Toronto criminal lawyer (Drummie). Thus though the *Act* reduced the credit from 2:1 to 1:1, a provincial judge turned it back up to 1:5 within the year. It is moments like these that make it so difficult to predict exactly how damaging the Conservative tough-on-crime bills will be in years to come.

"is more based on punishment than prevention, and that's dramatically new," says Errol Mendes, law professor at University of Ottawa. Mendes continues, "It's one of the most punishment-focused [agendas] in Canadian history" ("Crime and Punishment"). There is much that one could say on the topic of a politician's stated goals as compared to their internal motivations. When the Commissioner of CSC announces a new chapter in corrections grounded firmly in a particular report (the *Roadmap)*, and the government begins proposing legislation that is 'dramatically new,' that report's recommendations must be taken seriously.

'An American style prison system'

What has upset Canada's fine balance? This question remains open for further study. The U.S. and the UK's eras of punitive measures took force with Reagan and Thatcher respectively, while Canada maintained its restraint during Brian Mulroney's Progressive Conservative (PC) leadership from 1984 to 1993. The news media are referring to Harper's prison expansion plans as introducing "an American style prison system" to Canada at a time when the U.S. is embarking on decarceration strategies ("Tory Plans for U.S. Style Prisons"). According to this narrative, Canada is following in the footsteps of the U.S. and the UK, twenty-five years later.

One significant distinction between Brian Mulroney and Stephen Harper lies in the type of conservatism that they each represent. Mulroney led the Progressive Conservative Party of Canada (PC), a conservative party that held centrist views on social policy. Born in Québec, Mulroney's political strength was in his home province, as socially liberal Québec voters, angry with Pierre

Trudeau's military repression of Québec sovereigntist aspirations, positioned themselves solidly behind Brian Mulroney and the PC. Though he attempted to court his more conservative western constituency, and though he was responsible for many conservative acts during his term as he pushed through a neoliberal fiscal agenda, Mulroney largely maintained the social services and benefits that Trudeau's Liberal Party had put in place. Much has changed since the PC lost power to the Liberals in 1993. The right-wing vote was splintered for ten years, as the PC struggled to regain its influence and the Reform Party of Canada, a more markedly right-wing party from Western Canada that formed in 1987 in protest of Mulroney's centrist policies, worked hard to gain traction east of Manitoba. The Reform Party became the Alliance Party in 2000, and in 2003 the Alliance Party and the PC merged to form the Conservative Party of Canada, the party that Stephen Harper now leads.

In contrast to Mulroney, Harper's origins lie in Western Canada, and in the Reform/Alliance parties. His type of conservatism is significantly more neoconservative. In a 2000 editorial in the *National Post*, Harper praises Alberta for its "combination of American enterprise and individualism with the British traditions of order and co-operation," while he criticizes Canada for being "a second-tier socialistic country" ("Stephen Harper and Canada"). Harper recommends that the economically strong Alberta embark upon a Québec-style cultural separation, as the rest of the country "has responded by telling us in no uncertain terms that we do not share their 'Canadian values.' Fine. Let's build a society on Alberta values" ("Stephen Harper and Canada"). Here, Harper is

referring to Jean Chrétien's 2000 speech entitled "The Canadian Way in the 21st Century," in which Chrétien claimed the Liberal Party as the seat of 'Canadian values' such as hope, inclusion, tolerance, compassion, and sharing (Chrétien).

Chrétien's campaign to distinguish Liberal from Conservative values came at a time when the two parties had become virtually indistinguishable fiscally. Where "elections were once dominated by economic issues," there arose "a consensus on orthodox fiscal management" that required politicians to focus on other issue areas that might distinguish parties from one another (Nimijean). By branding 'Canadian values' as 'Liberal values,' Chrétien was operating within a narrow, though meaningful, set of value differences between Liberals and Conservatives. Alberta's values, in contrast to Canada's, are presumed to be more fundamentally conservative with respect to civil liberties. Now that he is Prime Minister, Harper's vision for Canadian society may be to bring it closer to Albertan values, a position upon which he campaigned ten years ago. The shift in conservatism from Mulroney to Harper may therefore be a significant factor informing the punitive shift.

Further, the events of September 11, 2001 ushered in a new era of securitization and risk management that Iris Marion Young calls a "security regime" (Young, 225). Many argue that September 11 intensified security discourse in the United States and elsewhere, as the state began to view all forms of migration as security threats, and as it became hyper-suspicious of potential terrorist activity within its national borders. The Canadian state's increasing punitiveness may be one element of Canada's security regime. "One of the things

I have learned since September 11, 2001," writes Young, "is how easily the state actions and political culture of a democracy like that of the United States can shift in authoritarian directions" (225). In a security regime, the state surveils and punishes at its discretion, with the stated objective of adequately protecting itself and its citizens from outside threats.

As Didier Bigo argues, "the professionals in charge of the management of risk and fear…transfer the legitimacy they gain from struggles against terrorists…toward other targets, most notably transnational political activists, people crossing borders, or people born in the country but with foreign parents" (Bigo, 63). In this way, the targets of state anti-terrorism initiatives have come to include any and all migrants, and the "expansion of what security is taken to include effectively results in a convergence between the meaning of international and internal security" (63). International and internal security forces have been working more closely since September 11, as their responsibilities and targets have blurred.

In the Canadian context, Mike Larsen and Justin Piché's article examining the Kingston Immigration Holding Centre (KIHC), security certificates, and indefinite detention makes this point quite clearly. Working with Bigo's concept of a security field as the collection of diverse public and private agencies that manage "(in)security" in a security regime, Larsen and Piché write that the story of the KIHC and its place in the "Canadian insecurity field" begins after September 11, amidst the secret negotiations of the Interdepartmental Working Group on Detention Issues (Larsen and Piché, 204). The working group included

representatives of Citizenship and Immigration, the Department of Justice, the Department of National Defence, the RCMP, the Solicitor General, the National Parole Board, and CSC (212). Larsen and Piché obtained a report that CSC tabled jointly with the working group on November 28, 2001 that states, "The events of September 11, 2001, as well as initiatives such as the Bills C-11 and C-36 have the potential for creating an increased need for detention in Canada....In anticipation of ministerial direction on this issue, an analysis was undertaken to determine how the Correctional Service of Canada (CSC) should best assist Citizenship and Immigration Canada (CIC) and other Departments or Governments" (cited in Larsen and Piché, 212).

The convergence of international and internal security was thus being solidified in the wake of September 11, and CSC was preparing itself for its role as assistant to border security and immigration police. CSC's establishment of the KIHC as a holding centre for indefinite detention is of particular importance to Piché and Larsen. No matter how punitive CSC has been, they argue, its mandate in the *Corrections and Conditional Release Act* (*CCRA*) states that it is responsible for overseeing the incarceration and conditional release of individuals who are serving sentences as imposed by courts of law. With its participation in KIHC, CSC began to manage people who had been denied both trials and sentences. "The fact that a portion of CSC's mandate—the portion that deals with the managed deprivation of liberty—can be partitioned off and contracted out in such a mercenary fashion is alarming, but not entirely surprising," they write. CSC's participation in indefinite detention, which runs contrary to its mandate,

"shows how malleable and precarious this mandate can be under 'exceptional circumstances'" (219). The field of Canadian insecurity changed its tenor after September 11. The state's increased focus upon and detention of migrants of all types (though especially from Arab and/or Muslim countries) required local, provincial, and national police and prison staff to join the anti-terrorism battle. The punitive shift of 2005/6 is one part of the Canadian security regime's commitment to maintain order and security no matter the cost.

Mapping the carnival

There are likely many conditions that, together, have tipped the balance in legislation, political rhetoric, and policy recommendations away from Canada's 'official culture of restraint' to one of increasing punitiveness and securitization. *A Roadmap to Strengthening Public Safety* contains the foundational ideology and recommendations for this conservative moment, and it is to this document that I turn in my next chapter. I begin Chapter 1 with a close reading of the *Roadmap*, isolating a number of key words that form the basis of its arguments. The *Roadmap* characterizes offenders as unmotivated and increasingly violent through its concept of the Changing Offender Profile. This typology compels the Review Panel to recommend overwhelmingly punitive measures in order to ensure 'public safety.' Identifying the longstanding, state-led cultural investment in the construction of the violent Native offender and the innocent settler public, I explore the structuring political conditions of possibility that enabled Correctional Service Canada to take the *Roadmap* seriously in 2007.

Parole decisions and policies, the subject of Chapter 2, exemplify the argument I develop in my first chapter. The historical project of molding parolees into governable subjects remakes itself in the 1990s in the language of risk management and public safety. As strategies to ensure the safety of the non-criminalized public, parole conditions allow paroled subjects to express only those aspects of themselves that conform to the dominant values of mainstream Canadian multiculturalism. The space afforded paroled subjects for their 'rehabilitation' is thus the space that is best suited for the mythical yet influential Canadian public to thrive and be safe. The health and safety of the individual paroled subject is incidental at best.

The paroled subject's hyper-responsibility for their criminality and for their irredeemability under the risk management framework constitutes the condition of possibility for the *Roadmap*'s recommendations regarding parole. In pushing for the abolition of statutory release, the Review Panel works within the previously established racialized, classist language of motivation and accountability to further restrict the release options of the most disadvantaged groups in prison. Advancing the spectre of the irredeemable, volitional criminal, the *Roadmap*'s discussion of parole represents a conservative turn that is mirrored in subsequent statements by Conservative party members.

It is only through recalling longstanding strategies of criminalization and policing that one can recognize their endurance today, and that one can begin to dismantle them. In my final chapter, I discuss *Parole Sans Parole*, a theatre piece written and performed by the Termite Collective that dramatically and

entertainingly moves through the different stages of parole. Active in Montréal, the Termite Collective works to "counter the relationships of dependency, and the 'under the thumb' feeling that prison (and the penal system in general) fosters" ("A Termite's Approach"). To this end, they give public workshops and write pamphlets, songs, and theatre pieces that address different aspects of the incarceration system.

Parole Sans Parole argues for a deep suspicion of current constructions of offender subjectivity, basing its argument upon a historical remembrance of colonial entitlement to safe neighbourhoods and a sharp critique of state citizen-making projects. The Termite Collective chooses humour and carnival as devices to express a dissenting perspective from the 'common sense' ways of thinking about prison. In so doing, it works within what Bakhtin calls the "peculiar logic of the 'inside out,'" destabilizing power relations just long enough to provoke its audiences into examining their own relationships to criminality and public safety (Rabelais and his World, 11).

Affirming the complex subjectivity of prisoners and parolees, and interrogating the role of the public in maintaining state oppression and violence, Parole Sans Parole questions the value of 'public safety.' As a concept, public safety may seem desirable. As I will show, however, A Roadmap to Strengthening Public Safety provides for the safety of certain publics at the expense of others. The safety of the law-abiding Canadian public is predicated upon the criminalization and incarceration of particular marginalized groups who cannot be considered ideal multicultural settler citizens. In contrast, Parole Sans Parole asks

its audiences to imagine the safety of the criminalized as a necessary component of meaningful public safety. In my conclusion, I will introduce another prison solidarity group, the Prisoner Correspondence Project (Prisoner CP), and its resource series "Fucking Without Fear," in order to further open up a discussion of meaningful public safety. Though the Termite Collective and the Prisoner CP work together and with similar goals, the collectives' methods are different. In turn, their understandings of safety differ, even as they both emphasize the safety of the incarcerated as a means to reject dominant discourses on safety and punishment.

If prisons function to maintain systems of economic and racial domination, then they counteract efforts to ensure the physical and emotional safety of communities as a whole. From the perspectives of inclusive public safety that *Parole Sans Parole* and "Fucking Without Fear" put forth, prison as a practice becomes untenable. Though the message of prison abolition groups such as the Termite Collective and the Prisoner CP is relatively simple, its implications are full of promise.

Chapter 1. The *Roadmap* and its strategically forgotten histories

2005/6 marks a beginning of increased punitiveness and securitization in Canadian federal policy, legislation, and practice on prisons and punishment. After 40 years of 'countering punitiveness' in Canada, something seems to have tipped the scales. This moment finds its ideological basis in the *Roadmap*. In this chapter, I study the *Roadmap* as a guide to its era. I read the *Roadmap* through the framework of its Changing Offender Profile and its deployments of the concepts of 'accountability and motivation' in order to connect the document to its strategically forgotten histories and contemporaneous political context.

According to Patricia Monture, a member of the Mohawk nation, Grand River territory, a lawyer by training and a long-time activist, prison is "an identity-making space, for the prisoners but not just for the prisoners" ("Confronting Power," 278). Through their designation as prisoners, incarcerated men and women create the prison itself, performing a crucial "social function in which respectability and the accompanying social power is distributed in Canadian society" (278). The making of the prisoner and prisons, then, functions to produce the borders of respectability that the rest of society enjoys. The *Roadmap* can then be viewed in terms of what type of prisoner is constructed within its pages, what type of prison is thus required, and what the borders of respectability have come to signify.

The *Roadmap* is an example of one of the "modes by which, in our culture, human beings are made subjects" ("Subject and Power," 777). In Foucault's model of "objectivizing," the *Roadmap*'s work can be seen as a

"dividing practice" in which subjects are created through a strategy of division, as between "the mad and the sane, the sick and healthy, the criminals and the 'good boys'" (778). The Changing Offender Profile in the *Roadmap* works to separate "legitimate and illegitimate lives" in late-modern penal politics (Ahmed, 191). This strategy reveals more about the Review Panel's investments in dividing practices than about the nature of 'offenders' themselves. Through its use of the Changing Offender Profile, the Review Panel argues that the character of those entering prisons today is far more dangerous and more complex than ever before. On the strength of this term and the conceptual tools deployed through it, the *Roadmap* recommends an aggressively punitive re-ordering of CSC prison policy that removes prisoners' rights.

The *Roadmap*'s use of a profile is tied to historical practices of psychological profiling that identify "dangerous individuals," and current practices of racial profiling that separate out the alien other from the normative subject ("The Dangerous Individual;" Rose, 185). Through the Changing Offender Profile, the *Roadmap* draws upon the strong tradition of criminal profiling in the Western cultural imaginary – in cultural production, psychiatry, and criminal justice – that dates back to the nineteenth century with the advent of the Modern criminal as a physical and identifiable type. As an instance of profiling, the Changing Offender Profile "trades in images, archetypes and anxieties, rather than in careful analyses and research findings" (Rose, 185). In the Canadian context, the term draws upon the archetypal colonial construction of the lawless Native offender that endured through residential schools and the

Sixties Scoop, and continues through to Canadian over-incarceration of Native individuals today.

In this way, the *Roadmap* builds upon the historically loaded rhetoric of an unmotivated Native criminal class that threatens the safety of the law-abiding public. The Canadian criminal justice system developed within colonial strategies of cultural stratification, and its primacy depended upon the denigration and erasure of Indigenous political and cultural systems. The construction of the lawless Native outsider was and continues to be the profiled Other against which the law-abiding Canadian national subject is produced. Public safety measures are one part of these dividing practices. While appeals to 'the public' imply universality, dominant discourse most often speaks to and for dominant publics. The *Roadmap* acts in the name of the law-abiding Canadian public in particular. If the *Roadmap*'s offenders are threatening, resistant, uneducated, violent Native prisoners, then the Panel requires a punitive system to house them, and an innocent, multicultural settler public to fear them.

In order to arrive at these conclusions, I first read through the *Roadmap*. Its surface texts alone – its title, its cover page, and its executive summary – are rich material for analysis. I then describe and analyze the *Roadmap*'s major recommendations, in the context of Canadian correctional history.

Reading the *Roadmap*

A Roadmap to Strengthening Public Safety is a 241-page policy document. Its front page features a photographic collage of the exteriors and interiors of prisons, underneath which lies a realistic roadmap of Kingston, Ontario. The

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document's title and cover recall colonial practices of mapping and toponymy as a

strategy of conquest (see Blomley, Helgerson, and Harris). As a neocolonial map,

the *Roadmap* both covers over what preceded it and provides its reading public

with orienting signposts. On the next page I have placed the cover of the

Roadmap beside a hand-drawn map drafted to expropriate native territory in 1870.

Though these maps are aesthetically different, the *Roadmap* can be situated within

colonial traditions of mapping as described by Cole Harris in reference to the

image on the right. Just as the preemption application figured in the image

"conceptualized unfamiliar space in Eurocentric terms, situating it within a

culture of vision, measurement, and management," so does the *Roadmap* chart an

ideologically charged course through the ethical dilemmas of incarceration,

situating them within a culture of dividing practices and risk management (Harris,

175).
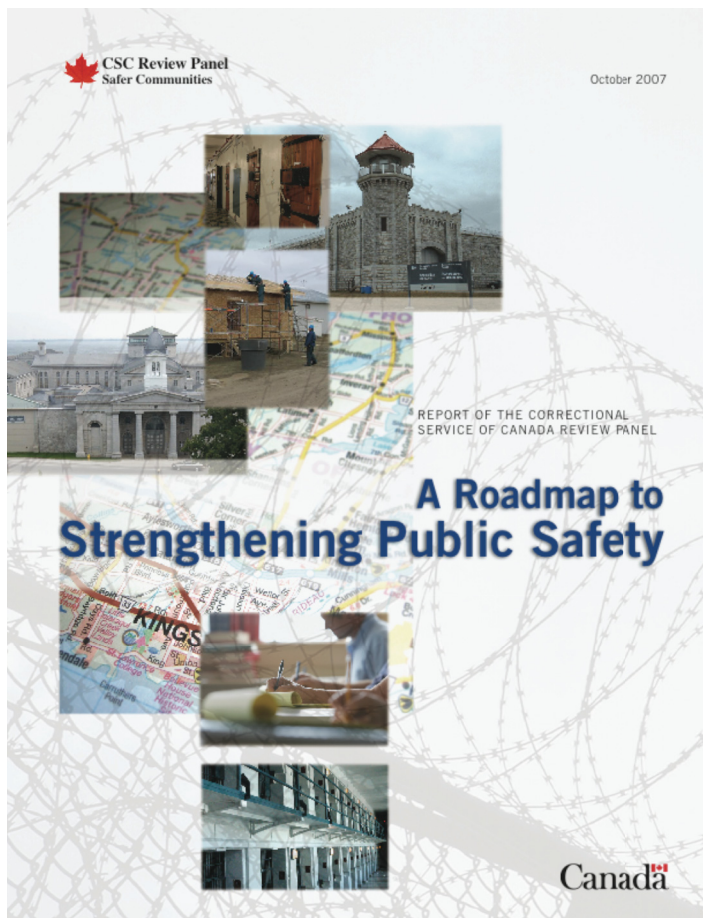
Figure 3. Property description and map accompanying a preemption application, 1870.

Left: Front cover of *A Roadmap to Strengthening Public Safety*.
Right: Property description and map from British Columbia, 1870. (Harris, 175).

On the cover of the *Roadmap*, the phrase 'Safer Communities' is located in the top left corner of the page, next to a maple leaf and underneath the words 'CSC Review Panel.' An otherwise ambiguous term on its own (what sorts of communities? what type of safety?), the cover anchors 'Safer Communities' within the fold of the Review Panel and Canada itself. Meanwhile, prisons and prison life sit in the middle of the page, central yet disconnected. Mapping prison space requires "a system of territorial surveillance that 'reache[s] across vast distances, flattening space, compartmentalizing it, [and] renaming it" (Brealey, cited in Harris 175). As a neocolonial map, the *Roadmap* names, images, produces, and naturalizes a system of prisons and its imagination of the typical offender type. It maps out and therefore makes legible its construction of offenders, for the sake of those multicultural, settler communities who are not the objects of the Panel's study but who are rather of the study, in line with the Panel and the State.

The *Roadmap*'s first three sentences in its brief section entitled "Historical Perspective" echo the sentiments on the front cover: "All Canadians have the right to live in safe communities. Threats to that right should be addressed swiftly and effectively by the criminal justice system. The federal correctional system is a critical component of that response" (*Roadmap*, 1). Here, the Panel enfolds 'Canadians' within the state and its systems of punishment and protection, stating that Canadians have the right to live in safe communities. It logically excludes the criminalized from the category 'Canadian,' as the criminal element is that which threatens the safety of Canadian communities and must be 'addressed' by the

federal correctional system. The rights of Canadians are counterposed to the rights of those who threaten Canadian safety. The Panel's choice to introduce its historical perspective with a set of statements emphasizing Canadian community safety highlights its identification with the longstanding historical commitment to protect some people's rights at the expense of others.

Following these general statements, the *Roadmap* begins its historical timeline in 1992 with the passing of the *Correctional Conditions and Release Act* (*CCRA*), the act that currently governs CSC's operations. The Panel informs its readers, "much has changed in Canada's criminal justice system since 1992…[when] the *CCRA* and CSC's mandate were designed to meet the challenges that the criminal justice system faced in the late 1980s" (1). The Panel's historical perspective dates back only fifteen years, effectively sidestepping major events in history prior to 1992, and marking that date as the baseline to which 2007 can be compared.

What most concerns the Panel about the intervening fifteen years since the *CCRA* was passed is how "the nature and size of the federal offender population has steadily changed" (1). To capture this notion of a steadily changing prison population, the *Roadmap* introduces the "Changing Offender Profile." On the whole, the Panel argues, the types of people who are entering prison today are far more violent than in the past: the number of people classified as maximum security has increased dramatically, as has the number of people with known affiliations to gangs or organized crime, with substance abuse problems, and with serious mental health concerns. It is for these reasons that "CSC is now faced with

an offender population that is more violent and requires either more interventions or possibly different types of intervention and this must be done in an even shorter timeframe than in the past" (v). Though one might expect the Panel to recommend rehabilitative and/or therapeutic interventions along with sanctions, most of its recommendations regarding the changed offender population are punitive.

Perhaps this is because the *Roadmap* strategically conflates the Changing Offender Profile with those prisoners who it characterizes as willfully unmotivated to change their criminal lifestyles. The Panel's statement that follows the quotation above seems unrelated: "CSC is to be commended for its efforts to rehabilitate offenders but it continues to face resistance from a portion of offenders who have no interest in rehabilitation and are content to 'wait out' the system until they reach statutory release (automatic release at 2/3rd of sentence)" (v). In addition to the difficulties of a more violent and mentally unstable prison population, the Panel believes that there exists 'a portion of offenders who have no interest in rehabilitation.' By placing these statements together, the Panel conflates the characteristics of the Changing Offender Profile with a separate group of (vaguely defined, under described) resistant prisoners who are 'content to wait out the system.' Its concluding statement regarding the Changing Offender Profile seems, in fact, to address the latter group when it writes, "Today, an offender working hard at rehabilitation is often treated no differently than an offender who is seeking only to continue his criminal lifestyle" (v).

By linking the Changing Offender Profile with the spectre of unmotivated, willfully criminal prisoners, the Panel is able to recommend a "roadmap for

change" based upon "the overriding principle of 'dual responsibilities and accountabilities' of the offender to earn parole and of CSC to provide the opportunities and tools required to support the offender in achieving the goals set out in the correctional plan" (56). Thomas Mathiesen remarks upon the disturbing trend in security and policing discourse to respond to conditions of social need with increased punishment, writing, "it is especially with a background in the extreme and general poverty among a large majority of those caught and imprisoned that the so-called new realists' call for intensified policing as the only main method of combating crime becomes cool and empty of compassion" (Mathiesen, 165). The *Roadmap*'s cool and compassionless emphasis upon motivation and accountability would seem more appropriate as a punitive system for the willfully criminal than as a response to problems of drug addiction, mental illness, unhappy childhoods, and gang affiliation. The Panel bases its 'roadmap' in its perception of the change that has taken place in the character of those being sent to Canadian federal prisons since 1992, and in the consequent need to intervene more forcefully in prisoner life in order to reinforce the accountability of the incarcerated with respect to their rehabilitation programs.

The *Roadmap*'s major effort is to right the "imbalance" that has been plaguing the prison system since 1992, when Section 4(d) of the *CCRA* mandated that the CSC "use the least restrictive measures consistent with the protection of the public, staff members and offenders" (16). "As a result," the Panel argues, "an imbalance has been created that places the onus on CSC to justify why the least restrictive measures shouldn't be used, rather than on offenders to justify why

they should have access to privileges based upon their performance under their correctional plans" (16). The Panel contends that in requiring CSC staff and administration to justify its decisions regarding punishments that are more restrictive than necessary, the *CCRA* removed any incentives, or "motivation," that people in prison might have had to work toward completion of their correctional plans (40). In doing so, the Panel constructs an illusion of equality between CSC and its prisoners in which each is beholden to the other in an "accountability contract" (107). Yet the *CCRA* placed the onus on CSC precisely because of the power it holds over its prisoners. In describing the *CCRA* legislation as an 'imbalance,' the Panel willfully ignores these power relations. Further, the Panel redefines rights as privileges that must be earned.

Due to both the perceived imbalance in rights and responsibilities between CSC and its prisoners, and the 'risks and needs' of a Changing Offender Profile, the *Roadmap* produces a number of recommendations. It re-writes Section 4(d) of the *CCRA* and re-defines the rights of a prisoner in Section 4(e). The word changes are minor, but the consequences are far-reaching. Regarding Section 4(d), the Panel recommends that the *CCRA* switch its language from "least restrictive" to "appropriate," so that CSC might "use *appropriate* measures that will ensure the protection of the public, staff members and offenders…" (17). This is to say, CSC staff would be authorized to discipline prisoners in whatever manner they considered appropriate, rather than being required to employ the least restrictive disciplinary measures possible.

With respect to Section 4(e), where the *CCRA* originally required "that offenders retain the rights and privileges of all members of society, except those rights and privileges that are necessarily removed or restricted as a consequence of the sentence," the Panel has recommended adding the word "basic," such that the legislation would read, "that offenders retain the *basic* rights and privileges of all members of society…" (17). Though the *Roadmap* does not clearly distinguish 'basic rights' from rights that one might need to earn, Jackson and Stewart cite a report of the Canadian Alliance Party to give some indication of what the Panel may be referring to. In its opposition minority report in 2000 concerning the five-year review of the *CCRA*, the Alliance stated that

> any person who has been convicted in a Canadian court should temporarily lose some of their rights and privileges as a Canadian. Primary exceptions to this are basic Charter rights such as right to an attorney and the right to humane and healthful treatment…. Beyond this, prisoners should have the ability to earn other rights and privileges such as more freedom within the prison, transfers to more desirable facilities, training programs, sports programs, visitor privileges, payment for work performance, canteen privileges, temporary absences and parole. (Canadian Alliance Official Opposition Minority Report, cited in Jackson and Stewart, 43).

As in the Panel's opening sentence of its 'Historical Perspective,' this perspective distinguishes between the rights of Canadians and the rights of criminals. The

implication is that criminals are not fully Canadian, or perhaps they lose their

Canadian-ness once they enter prison. (The Alliance position, re-stated in the

Roadmap, does not address whether a criminal can regain their status as a

Canadian post-release, a question that I take up in my next chapter.) The *CCRA*

was drafted precisely to oppose such a perspective, taking "the view that an

individual in prison does not lose 'the right to have rights.'" Called "retained

rights," this "principle means that it is not giving rights to inmates which requires

justification, but rather, it is restricting them which does" (Correctional Law

Review Working Paper, cited in Jackson and Stewart, 44). In its report, the

Alliance party puts forward a dissenting opinion that disputes the right of a

prisoner to have rights, and reverses the burden of proof so that it is precisely the

act of 'giving rights to inmates' that would require justification. The *Roadmap*

adopts the language of earned rights and privileges, such that one's 'freedom'

within the prison (as described in the passage above) would be earned or removed

based on one's behaviour.

The Changing Offender Profile

The key concept in the *Roadmap* is the Changing Offender Profile. The

Panel states, "The picture of who is arriving at penitentiary doors is an alarming

one" (*Roadmap*, v). The Review Panel members are so alarmed by the Changing

Offender Profile that they develop a stringent model of 'offender accountability'

to orient corrections policy. Yet in doing so, the *Roadmap* "fails to acknowledge

or give due consideration to the relevant historical context in which many of its

recommendations must be situated" (Jackson and Stewart, xi). Relying upon

faulty statistics and repurposing the Changing Offender Profile from its original usage a decade earlier, the *Roadmap* draws upon the recent work of 'profiling' and builds upon histories of racialization and criminalization that are a part of contemporary judicial practice.

As I have argued, the Panel's rendering of history posits a shift in the character of 'criminals' sometime between its report and 1992, during which time the profile of those entering Canada's prisons decisively changed. Citing then-CSC Commissioner Keith Coulter's speech to the International Corrections and Prisons Association in 2006, the Review Panel lists a number of factors that have contributed to the Changing Offender Profile. For instance, the Panel writes, "Our offenders…have more extensive histories of violence and violent offences in their criminal history, and far more are assessed as violence prone, hostile, impulsive and aggressive" (*Roadmap*, 3). Yet Jackson and Stewart cite a Juristat report that speaks against the Panel's construction of offenders as more violent than in the past: "While offenders convicted of violent offences continue to represent the largest proportion of offenders admitted to federal custody, this proportion decreased from 58% in 1997/1998 to 49% in 2006/2007" (Avani Babooram, cited in Jackson and Stewart, 28).

Furthermore, several of the changes that the Review Panel cites in its delineation of the Changing Offender Profile can be attributed to changes in CSC's own policy, such as the fact that "there has been an increase of more than 100% in the proportion of offenders who are classified as maximum security on admission" (*Roadmap*, 4). According to Jackson and Stewart, CSC changed its

policy in 2001, mandating that "all prisoners sentenced to life imprisonment for first and second murder [sic] are to be classified during the first 2 years of their sentence as maximum security. Prior to 2001 many of these offenders were rated medium security on admission" (Jackson and Stewart, 28). From these two examples alone, it becomes clear that the Changing Offender Profile as described by Coulter and the *Roadmap* rests on shaky statistical ground. Jackson and Stewart conclude that the narrative of the Changing Offender Profile "is overly simplistic and...suffers from a lack of historical perspective" (27). According to the authors, the Panel members were mistaken in uncritically accepting Coulter's Changing Offender Profile. Their report is a "misinformed analysis of violent crime trends...[that] set[s] the stage for many of their most dubious recommendations" (Jackson and Stewart, xi). Yet the Changing Offender Profile remains rhetorically effective, as the basis of the *Roadmap*'s punitive recommendations. As such, it is worth examining the term's history and implications.

Coulter based his speech in CSC's official assertion of a Changing Offender Profile, a term that began to appear in the early 1990s in the annual Reports on Plans and Priorities that CSC submits to the Treasury Board of Canada. Justin Piché spoke to a number of former CSC officials who suggested that the Changing Offender Profile may have emerged as a result of the Chrétien administration's 1993 federal budget cuts. CSC might have introduced the figure of the more violent offender in order to justify its request to maintain its budget line – it was "a way for them to say, look we may have a declining prison

population or a stable one, but we need to maintain our budgets because the prisoners are now different from the ones we previously dealt with" (interview with author, 4 February 2011). Piché intends to follow up on these off-record implications with documented research of his own. What is clear, however, is that while the Changing Offender Profile has always been a politically motivated construction of some kind, its usefulness has changed. Re-appearing in Keith Coulter's speech, the term is now "the seductive rationale" that "sets the stage to adopt simplistic sanction-based responses to a whole range of complex problems" (Jackson and Stewart, xi). Yet even its use in the early 1990s calls forward the modern, dividing practice of criminal profiling. While the political implications of the Changing Offender Profile have changed significantly, the term always already carries within it histories of racialized criminalization.

The psychiatric study of criminals began in the early nineteenth century, as the legal question shifted from "What must be punished and how?" to "Whom do you think you are punishing?" ("The Dangerous Individual," 128). Though the work of profiling was and remains the specialty of expert psychiatrists, it also quickly became popularized. Foucault calls this a "literature of criminality," as the image of the dangerous individual appeared everywhere in popular and news media sources, such that "ever-present criminality" became affirmed as a real collective fear and is now "perpetually inscribed in each individual consciousness" (142). This relates to profiles in particular: "criminal justice profiling by law enforcement has been extensively represented and glamorized in books and film. Many Americans with no connection to criminal justice

professions could tell you about common types of criminal adversaries that are targeted by profiling" (Bumgarner, 26). The fear of particular types of dangerous individuals is a well-established practice in mainstream news culture.

In a general sense, criminal profiling might be seen as a professionalized form of what people have always done. Some crimologists think of it as little more than a form of stereotyping, "an aspect of the mind's ability to make generalizations" (Slovenko, vii). Criminological studies are quick to disentangle the practice of "criminal profiling" from "racial profiling," in a bid to recover the integrity of criminal profiling from the racist practices of racial profiling. According to proponents of criminal profiling, the fact that racial profiling has been so damaging to particular communities is unfortunate, but has little to do with the "legitimate method of using race among many other factors in accelerating reasonable suspicion or probable cause" (Fredrickson and Siljander, xi).

In contrast to these arguments stands the more critical work of scholars such as William Rose, who views racial profiling as constitutive of profiling practices in general. Rose writes that "'profiling' would seem to be grounded in some sort of precise actuarial calculation, but it is not" (Rose, 185). He uses a 1995 article written by criminologist James Q. Wilson as an example. Wilson profiles the faces of the predators who so terrify U.S. citizens, characterizing them as "6 percent of the boys of a given age….[who] tend to have criminal parents; to live in cold or discordant families (or pseudo-families); to be emotionally cold and temperamentally impulsive…[etc.]" (Wilson, cited in Rose, 190). Wilson

concludes, "...in general few criminologists are any longer surprised to find that the typical chronic offender looks pretty much as I have described him" (190). As Rose continues, "We can almost hear him say as well that, more often than not, the faces of those within this relatively small but dangerous class are black" (190).

Extending Rose's comments to the work of profiling in the Changing Offender Profile, one can arrive at a similar conclusion. Native people are overrepresented at every stage of Canada's criminal justice system, and indeed Canada as a nation is built upon the criminalization of Native people, a topic to which I will return in more detail in a moment. The work of profiling, as the drawing of a portrait of particular dangerous individuals, cannot be separated from the work of racial profiling. Rose cites David Garland's work in arguing that racial profiling is one aspect of the criminological discourse of the "alien other" that has arisen since the 1970s (Garland, cited in Rose, 185). The typecasting in which the Review Panel engages is emblematic of the discourse of the 'alien other,' as it appears to be based in demonstrable facts but ultimately trades in "images, archetypes and anxieties" (Rose, 185). It is a strategy that predates the current discursive trends of which Garland writes. Indeed, the resonance of the profile lies precisely in its striking similarity to far older constructions of alien others. The criminological discourse of profiling pretends to statistical objectivity, but operates within a long history of typecasting, as well as within a living present of racialized criminality. The figures of the unmotivated criminal and the law-abiding member of the public exist within discursive historical practices of

colonial racism and criminalization in Canada. The punitiveness displayed by the *Roadmap*, then, can and should be viewed alongside these cultural resonances.

The ongoing injuries of colonisation

The overrepresentation of Indigenous people in Canadian prisons is well-documented and oft-discussed (see, for example, Andersen, Green, Stewart and Jackson, Monture, Turpel, Yuen and Pedlar, and others). As of 2007, Indigenous people represented 19.6% of the federal prison population, in contrast to comprising just 3% of the general population of Canada. As such, the overall incarceration rate of Native people in Canada is 9 times higher than that of non-Native people (Stewart and Jackson, 153-4). In its 1999 decision in *R. v. Gladue*, the Supreme Court wrote,

> The excessive imprisonment of aboriginal people is only the tip of the iceberg insofar as the estrangement of the aboriginal peoples from the Canadian criminal justice system is concerned. Aboriginal people are overrepresented in virtually all aspects of the system. As this Court recently noted in *R. v. Williams*…, there is widespread bias against aboriginal people within Canada, and '[t]here is evidence that this widespread racism has translated into systemic discrimination in the criminal justice system.' (*R. v. Gladue*, cited in Stewart and Jackson, 150)

The high rates of representation of Native people in all aspects of the criminal justice system, combined with evidence that such overrepresentation is due to widespread systemic racism, induced the Supreme Court to speak of a "staggering

injustice" that could fairly be considered "a crisis in the Canadian criminal justice system" (150). At the time of this ruling, Native people comprised 12% of the federal prison population, 7.6% less than the current figure.

The urgency of the crisis has not lessened in the past ten or so years, but rather has increased. Addressing Parliament in 2006 regarding his Annual Report, Correctional Investigator Howard Sapers expressed his "grave concern…that the Correctional Service of Canada falls short of this standard [to ensure all offenders are treated fairly] by allowing for systemic discrimination against Aboriginal inmates" (Sapers, cited in Stewart and Jackson, 152). As examples of such systemic discrimination, Sapers reported to Parliament that Native people are placed in minimum-security prisons at half the rate of non-Native people, and that this statistic is even more divergent in the case of women. Further, Native people are placed in solitary confinement more often than non-Native people. Routinely ending up in high-security classifications and solitary confinement "limits one's access to rehabilitative programming and services intended to prepare inmates for release and successful reintegration into society" (Sapers, 152). The crisis of over-incarceration, then, is a self-propelling one.

Imagine, at this juncture, the implications of introducing more punitive measures for those who do not correctly follow their correctional plans, and of delaying release for those who have not yet completed them. The consequences of such measures would fall disproportionately upon Indigenous people. Yet to fully understand the work of the *Roadmap*, I move further back into the history of the

'staggering injustice' of colonisation and the criminalization of Indigenous people in Canada.

In her book *Exalted Subjects: Studies in the Making of Race and Nation in Canada*, Sunera Thobani situates the criminalization of Native people in Canada within a larger project of Canadian nationhood. "Western ontologies have long been based in binary constructions with the self being constituted in relation to its excluded Other….Master narratives of Canadian nationhood define the national's character relationally," setting up multiple binary constructions that exalt the subject in relation to an Other and thus "function as a form of ontological and existential capital that can be claimed by national subjects in their relations with the Indian, the immigrant, and the refugee" (Thobani 5-6). Regarding the 'Indian' in particular, the British and French settlers were exalted as law-abiding subjects while Native people were "fantasized in the juridical imaginary as the embodiment of pure lawlessness" (14). It was, then, through the mutually reinforcing projects of racism and the law that the "Christian European as civilized subject was exalted over the heathen Aboriginal, fossilized as essentially primal in nature" (13-4). In order to establish their legal supremacy, settlers systematically "tor[e] down, eroded, and replaced" Indigenous political and legal systems and ways of life (Ross, 14). The outlawing of significant Indigenous traditions and rituals, as well as the categorization and quantification of Indigenous people into particular groups and blood levels of 'Indianness,' operated by way of encoding the dominant subjectivity of whiteness and maleness into the legal standards to which Indigenous people were held (Hudson, 30). "In

many ways, law is colonialism's first language" (Boire 231). Though these injuries may have originated in the 'past,' they served to "anchor the legitimacy of the current and future state practices" of land acquisition and cultural genocide (Andersen, 317). The Canadian colonial project was fundamentally invested in the criminalization of this land's first peoples.

The systemic racism of Canadian legal practices regarding Native people is both a historical reality and a present-day crisis.[5] Consider the language of the Review Panel when discussing Indigenous people in prison. Though one might not expect the Panel to acknowledge the systemic discrimination of Natives in the justice system, it is surprising that the members do not foreground the issue of Native over-incarceration at all. They do write that there is an "urgent need for broader implementation of Aboriginal-specific interventions," and they commend CSC for its work that it has done in tailoring its programs to Indigenous needs (*Roadmap*, 83-4). In that same paragraph, however, they quickly revert to their previous characterization of the violent, unmotivated offender, warning that some Indigenous people, "particularly those associated with gangs, may resist any type

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[5] There is a distinction to be made between the work of colonisation and the work of racism, especially as it relates to current antiracist and decolonisation struggles. In their article on "Decolonizing Antiracism," Lawrence and Dua parse out the complicated nature of doing antiracist work on colonized territory, and emphasize that those who are engaged in migrant justice struggles and work on diasporic countercultures need to simultaneously recognize their presence as settlers. They argue that including Indigenous people in theoretical frameworks of antiracism often results in decolonisation politics being equated with antiracism politics, "an ontological approach [that] places decolonisation and antiracism within a liberal-pluralist framwork, [and] which decenters decolonisation" (Lawrence and Dua, 130-1). Here, I am highlighting the over-incarceration of Indigenous people in Canada as a marker of both racism and colonisation, yet am doing so in awareness of the distinctiveness of the ongoing decolonisation struggles as compared to antiracism work.

of involvement, requiring concerted efforts to motivate them to change"

(*Roadmap*, 83-4). The language of the Panel when discussing the case of

Indigenous people in prison retains its overarching discourse of motivation. In

framing its section on Indigenous prisoners in this way, the Panel slides over the

reality of Indigenous over-incarceration. In the context of Thobani's framework,

the Panel's inclusion of Indigenous prisoners in its punitive framework of the

changed offender profile is significant. Characterizing Indigenous people as

'requiring concerted efforts to motivate them to change,' especially when those

efforts are punitive in nature, carries with it a long cultural resonance of the

demonization and criminalization of Indigenous people as lawless and heathen.

This resonance is especially loud in the wake of residential schools and the

Sixties Scoop, whose main purposes were to educate and assimilate Canada's

'backward, uncivilized' Native population. In its 1988 study entitled "Locking Up

Natives in Canada," the Canadian Bar Association writes, "Prison has become for

young Native men the promise of a just society which high school and college

represents for the rest of us." "Placing this in a historical context," the study

continues, "the prison has become for many young Native people the

contemporary equivalent of what the Indian residential school represented for

their parents" (cited in Stewart and Jackson, 149). Where this statement compares

the inevitability of incarceration to the previous generation's enforced attendance

at residential schools, I would argue that that the imprisonment of Indigenous

people also carries with it the same discursive frames that functioned in

residential schools, and in the other processes of colonisation that preceded them.

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The residential school system was a network of religious schools throughout the country which Native children were forced to attend, unable to visit their homes or speak their Native language, and where they were often brutally treated at the hands of priests and nuns. There has been a significant amount of academic and practitioner-led work to assess the damaging effects of the residential school legacy. A report exploring the connections between residential schools, prisons, and HIV/AIDS among Native people in Canada documents the trauma of the residential schools as it extends outward to the erosion of the "extended family-based system" as well as to family and friends of survivors (Barlow, 7). Barlow cites a study in which several "...transgenerational effects of the residential schools" are listed, including "the structural effects of disrupting families and communities; the transmission of explicit models and ideologies of parenting based on experiences in punitive institutional settings;...repetition of physical and sexual abuse;...systematic devaluing of Aboriginal identity" and so forth (Kirmayer *et al*. cited in Barlow, 8). The last government-run residential school closed its doors in 1996.

The effects of the Sixties Scoop are now also beginning to register. Between 1960 and 1990, 11,132 "status Indian" children were adopted out of their Native families to white homes, though the actual numbers are believed to be much higher than that (Origins Canada). Patrick Johnston coined the term Sixties Scoop in his 1983 report on "Aboriginal Children and the Social Welfare System," as he compiled substantial evidence that "Aboriginal children were literally apprehended from their homes and communities without the knowledge

or consent of families and bands" (cited in Sinclair, 66). Though the term originally referred to the 1960s, it has since come to signify the widespread forced adoption practices that continued through to the 1990s. Indigenous leaders began to challenge child welfare agencies in the early 1980s, linking the high rates of transracial, forced adoptions to "...the assimilationist colonial model that assumed Aboriginal people were culturally inferior and unable to adequately provide for the needs of their children," and comparing the white social worker to the missionary, priest, and Indian agent before them (67). Justice Edwin C. Kimelman led a 1985 Manitoba inquiry condemning the Sixties Scoop as cultural genocide (Lyons). Analysis of these painful experiences has only recently begun to emerge in dissertations and Master's theses, as the children of the Sixties Scoop come of age. The fallout from the residential schools and the Sixties Scoop are lived experiences, in the present. It is in this way that the 'history' of colonisation in Canada is a misnomer.

As Sara Ahmed argues, signs and objects bind together and accumulate value by virtue of a long history of repetitive association. At a certain point, the value of a particular sign or object might accumulate to the point where one word can be spoken and its attendant associations do not even need to be spoken alongside it in order to be evoked – the sign/object is now fetishized. The "association between words that generates meanings is concealed: *it is this concealment of such associations that allows such signs to accumulate value*" (Ahmed, 92, emphasis Ahmed's). Thus when the *Roadmap* speaks of Indigenous people who have broken the law, it is speaking within the cultural legacy of an

institutionalized "absolute alterity between different categories of human life" that worked to "breath[e] juridical force into the category Canadian while draining it out of the category Indian, solidifying and fixing their identities as different kinds of subjects (and objects) of power" (Thobani, 38). The historical and cultural force of the figure of the Native criminal who is resistant and unmotivated to change is a sign that has accumulated value over the years, justifying countless abuses. As a fetishized category, the criminalized Native badly in need of education is packed with the racist civilizing project of colonisation, a project that was only officially abandoned fifteen years ago. It is for this reason that the seemingly banal and logical inclusion of the category of Indigenous offenders within the Panel's overriding principles of the Changing Offender Profile and offender accountability is so historically and politically significant.

Keeping the public safe

Thobani writes that the Native criminal is a relational construct, the other side of which is the subject, the law-abiding national. As I stated earlier, Patricia Monture reminds us of this social condition in relation to prisons, writing that prison is "an identity-making space, for the prisoners but not just for the prisoners" ("Confronting Power," 278). The *Roadmap*, as a document that produces a particular class of criminal, simultaneously constructs a public for whose safety it sees itself as responsible. The passage that I quoted above that introduces the *Roadmap*'s 'historical perspective' communicates this effectively when it asserts that "All Canadians have the right to live in safe communities. Threats to that right should be addressed swiftly and effectively by the criminal

justice system" (*Roadmap*, 1). As Canadian nationality was historically

constructed on the basis of a lawless Indigenous outsider, the Panel's decision to

situate the history of corrections policy in the right of a Canadian public to its

safety in the present calls forward this history of subject and Other into the

present. The entitlement of Canadians to safe communities can be read on the

Canadian foundation of "historic Anglo entitlement" to the land that is now called

Canada, an assertion that "shapes Canada as a white space in which Aboriginal

land claims need not be taken seriously" (Schick, 159). It is in this way that the

right of Canadians, a group of people constructed in opposition to Indigenous

peoples, to be protected in their neighbourhoods from criminalized threat recalls

and re-enacts the shaping of Canada as a white space.

Thus it is in understanding the outsiders that we come to understand the

Canadians who the *Roadmap* is protecting. Exploring the work that emotions do,

Ahmed writes that "in hating another, th[e] subject is also loving itself; hate

structures the emotional life of narcissism as a fantastic investment in the

continuation of the image of the self in the faces that together make up the 'we'"

(Ahmed, 52). Prime Minister Stephen Harper's public address of January 25,

2008 is a 'fantastic investment in the continuation of the image of the self'

enacted through both hate and love:

> Some try to pacify Canadians with statistics. Your personal
>
> experiences and impressions are wrong, they say; crime is really
>
> not a problem. These apologists remind me of the scene from the
>
> Wizard of Oz when the wizard says, 'Pay no attention to that man

behind the curtain.' But Canadians can see behind the curtain. They know there's a problem. And they know it was caused by a generation of lawmakers who embraced the bizarre notion that the rights of criminals outweigh the rights of law-abiding citizens. (Cited in Jackson and Stewart, 5)

The work done by this speech is emblematic of the increasing politicization of crime, and the divisions it creates are identical to those present in the *Roadmap*. Here, Harper compares statistics to wizardry, and against their false comfort, Harper privileges personal experience. Aligning experts and lawmakers with criminals' rights, Harper places the purview of justice outside of the lawmakers' range, and in the 'common sense' of law-abiding citizens. The experts, lawmakers, and criminals who Harper disparages are on the outside of popular conceptions of justice, and are thus on the outside of his address. He speaks directly to those who deserve to be addressed – Canadians, that is, law-abiding citizens. By beginning with the 'problem of crime' as personally experienced by Canadians, and ending by opposing 'the rights of criminals' to the 'rights of law-abiding citizens,' Harper effectively severs the criminalized from any connections they might have to citizenship and personal experience, indeed, from any ability to be a part of the 'we.'

Who then are the 'faces that make up the we?' Those faces are not criminal, and they are not Native. Nor are they experts, or lawmakers. They are the 'ordinary' public, a metonym that Peter Cramer describes as a "productive contradiction:" "While 'the public' is used as if it refers to a definite, human

participant, it remains non-assignable at levels more specific than that of the

corporate noun. It is a group whose members remain anonymous, and a group that

functions as if it were an individual" (Cramer, 276). Because of these features,

"speakers and writers" can "enact a general and unitary civic body" even though

the 'public' does not refer to any group of people in particular (268). Indeed, it

has long been argued that the 'public' of government policy is a "mere phantom,"

and its agency an "extraordinary fiction" (Lippmann, 77; Warner, 89). Yet this

discursive phantom, as Cramer's quote explains, can produce concrete effects.

Though the 'Canadian public' may appear to refer to everyone holding a

Canadian passport, "some publics are more likely than others to stand in for *the*

public, to frame their address as the universal discussion of the people" (Warner,

84). The employment of the public metonym in Canada works precisely to

establish a universal discussion of the people, a discussion that only certain

publics can call their own.

In his February 2011 editorial assessing the Conservatives' 'tough-on-

crime' agenda and the opposition's fight against it, *Globe and Mail* journalist

John Ibbitson writes, "We know from endless polling and from conversations in

bars – sorry, at Tim Hortons" that "a lot of us think that the streets are becoming

more dangerous. And don't wave a StatsCan data set showing it's not true. People

know what they know" (Ibbitson). The Canadian public is one that is more

comfortable in a coffee/doughnut shop than in a bar, and has more faith in its own

knowledge than in statistics (though 'endless polling' seems to escape criticism).

As the other side to the unmotivated, resistant Native in need of education in

punitive institutions, we find the multicultural, settler subject who does not require education and who can be found in the belly of the capitalist construction of Canadian identity, Tim Hortons.[6] Able to avoid unruly, dangerous locations such as bars on their own, the multicultural settler subject is mobile (though to varying degrees depending upon one's racial/class status), yet is constantly threatened by danger.

The innocence of the Canadian public is a trope that functions in two separate ways here. First, Canadians are innocent in that they are not guilty of committing crimes. Second, they exhibit what Dionne Brand calls a widespread "stupefying innocence" regarding institutional and systemic racism in Canada (Brand cited in Backhouse, 14). This is what Constance Backhouse refers to as the self-congratulatory mythology of "'racelessness' that pervades Canadian thought" (14). Backhouse notes that between 1900 and 1950 race was not a "recognizable legal category of classification," and so it was technically impossible to index cases according to race. As such, "statutes drawing all manner of racial distinctions were frequently 'raceless' in title" (13). Nevertheless, Backhouse explores how the Canadian legal system built itself upon the 'mythology of racelessness,' drawing upon several court cases prior to 1950 to illuminate and document "the central role of the Canadian legal system in the establishment and enforcement of racial inequality" (15). The 'stupefying

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[6] Tim Hortons has run ad campaigns depicting customs officials admitting 'real' Canadians into Canada by virtue of the travelers' knowledge of Tim Hortons contests (Berland, 140), as well as African migrants arriving in Canada at the airport to meet their family member and first feeling a sense of belonging and 'Canadian-ness' in their first cup of Tim Hortons coffee. In this way, Tim Hortons has aligned itself with a state- and capital-driven multiculturalist identity-making project.

innocence' of the Canadian public easily coexisted with the systemic racism of the law, and continues to do so today. Indeed, it is evident in Webster and Doob's invocation of 'Canadian blandness' in the midst of what was elsewhere labelled a staggering injustice. And it is evident in the *Roadmap*, as the racial implications and histories of the Panel's Changing Offender Profile and punitiveness are unspoken and unattended to. The willful act of forgetting – erasing and re-naming – this is the work done by the type of history offered to us by the Review Panel.

The significant gap between rhetoric and reality ensures that the material outcome of a policy document is never clear. Stanley Cohen refers to political rhetoric as "'good stories' [that] stand for or signify what the system likes to think it is doing, justify or rationalize what it has already done and indicate what it would like to be doing (if only given the chance and the resources)" (cited in Jackson, 6). Understanding that official policy is a story does not legitimate dismissing it. Rather, it constitutes a "theoretical double-bind: to take these stories seriously (seldom are they based on total delusion, fantasy or fabrication), but also to explore their connections with the reality they are meant to signify" (6). In this chapter I have taken the story of the *Roadmap* seriously in order to explore its connections with powerful discourses and realities: the historical practices of mapping and naming as strategies of conquest; the denial of prisoners' rights and the simultaneous characterization of prisoners as unmotivated; criminal profiling as racial profiling; the construction of the lawless Native outsider and the innocent settler Canadian public; and finally, the realities of systemic discrimination and over-incarceration of Native people in Canada.

The *Roadmap* was commissioned and produced in the name of public

safety, and the question of safety is what we are left with. Thus far, I have argued

that the *Roadmap* defines safer communities as composed of multicultural,

middle-class settler citizens whose identities depend upon the demonization and

exclusion of Natives, criminals, and Native criminals for their citizenship status

and territorial claims to remain intact. In my next chapter, I discuss the paroled

subject as the Other to the law-abiding Canadian national, and the ways in which

parole conditions privilege 'public safety' over the genuine recovery of the

paroled subject. I also continue my analysis of the *Roadmap*, sorting through its

strategies of willful forgetting as it recommends the abolition of statutory release.

Chapter 2. Neoliberal parole policies and irredeemable bodies

This chapter takes up *A Roadmap to Strengthening Public Safety*'s section on parole in order to trace the *Roadmap*'s dividing practices that I analyzed in Chapter 1 through one of its principal recommendations, the abolition of statutory release. The policies surrounding a prisoner's conditional release, and their subsequent supervision in the community, convey policymakers' concerns regarding public safety and citizen/criminal identifications. As a form of conditional release, being on parole entails being supervised outside of prison while one is still technically serving one's sentence. Paroled subjects, then, exist in a liminal space of no-longer-prisoner but not-yet-citizen. They are "at large" in the community, and as such, their very existence is a constant flashpoint in the media (*Roadmap*, 109; "History of Parole in Canada").

Before discussing the distinctive work of the *Roadmap*, I first review the neoliberal parole policy discourse that governs the paroled subject in general. The second half of this chapter then analyzes the work of the *Roadmap* regarding parole. The *Roadmap*'s section on parole chiefly addresses statutory release, which is only one aspect of early release. Its recommendation to abolish statutory release is a significant one, and is firmly rooted in its construction of a Changing Offender Profile. Finally, the Termite Collective's theatre piece *Parole Sans Parole*, which I discuss in Chapter 3, addresses parole specifically. This chapter is in part an overview of dominant perspectives on the paroled subject, to which *Parole Sans Parole* responds.

Citizen-making projects

Scholars who write on the parole system in Canada identify the early

1990s as the beginning of new parole supervision philosophies based in risk

management. Combined with more traditional concerns of punishment,

rehabilitation, and responsibilization, Canadian national parole policy in a risk

management era prioritizes the safety and the peace of mind of the public over

and above the safety and rehabilitation of the paroled subject. Looking at National

Parole Board (NPB) decision statements, as well as personal anecdotes, I argue

that parole administrators attempt to assure the safety of the Canadian public by

limiting the geographic spaces and subject positions that a paroled subject can

occupy, and by transforming the paroled subject into a governable citizen.

Through its neoliberal[7] discourses of choice, responsibilization, and risk

management, the Canadian federal parole system constructs a paroled subject who

is responsible for their bad choices and is unable to take care of themselves.

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[7] In this thesis, I employ the term "neoliberal" to describe the strategies of government that have been in place since the decline of the welfare state in the 1970s and the ascendance of late modern capitalism. Neoliberalism, though varied depending upon the time and the place, tends to "encourage the governed to adopt a certain entrepreneurial form of practical relationship to themselves as a condition of their effectiveness and of the effectiveness of this form of government" (Burchell, 29). As social relationships begin to take on economic dimensions, a new subjecthood develops in which individuals "are required to assume the status of being the subjects of their lives," as the government "offer[s] individuals and collectivities active involvement in action to resolve the kind of issues hitherto held to be the responsibility of authorized governmental agencies. However, the price of this involvement is that they must assume active responsibility for these activities, both for carrying them out and, of course, for their outcomes, and in so doing they are required to conduct themselves in accordance with the appropriate (or approved) model of action. This might be described as a new form of 'responsibilization' corresponding to the new forms in which the governed are encouraged, freely and rationally, to conduct themselves" (29). The citizens of a neoliberal state, therefore, are invited to participate in their own governance only in economically rational terms, and are invited to call that participation 'freedom.' They are then hyper-responsible for their own conduct, as well as for the outcome of their political engagements, many of which were formerly the responsibility of government agencies.

The paroled subject is always already a risk to be monitored and controlled. This subject is considered redeemable, however, when they are perceived to be engaging in "'meaningful' and 'prosocial'" behaviour – the behaviour of the idealized multicultural, middle-class member of the Canadian public (Turnbull and Hannah-Moffat, 548). These strategies likely do little to secure the public's peace of mind, as in a risk society the fear of crime is ever-present and normalized (Garland, 446). Through parole conditions such as non-association, abstinence from alcohol, and transparency, however, administrators have succeeded in limiting paroled subjects' geographic mobility and expressions of subjecthood.

Consistent with the *Roadmap*'s conservatism, as well as its strategic forgetting of historical corrections praxis and colonial history, the *Roadmap*'s Review Panel proposes to abolish statutory release. This proposal misconstrues the origins of statutory release and disregards the concrete implications of abolishing the practice. To abolish statutory release would be to significantly reduce release options for those who already experience high degrees of discrimination. The *Roadmap*'s recommendation evidences the renewed primacy of the discourse of the volitional, racialized criminal, a discourse which surfaces in the political speech of key Conservative party members as well. Though this narrative has always been present in policies of conditional release, the *Roadmap* has brought it to the fore once again. Through the document's portrayal of the irredeemable criminal, imprisoned men and women must now struggle even

harder to access the parole system that already so policed their identities in its process of citizen-making.

Risk management and the policing of identity

In his 1990 essay on the parole system in Canada as compared to the U.S. and the UK, A. Keith Bottomley predicts that the protection of the community from criminals "at large in its midst" will be one of the decisive factors in Canadian parole policy for the coming decade. "In this respect," Bottomley writes, "the clock has turned full circle back to the nineteenth century, when there was a public outcry in London against the wave of muggings and street crime allegedly committed by the ticket-of-leave men, paroled from sentences of penal servitude" (Bottomley, 366). Moving into the 21st century, Bottomley foresees a Canadian general public increasingly demanding protection, and a corresponding shift in the purpose of parole from one of rehabilitation to one of risk management. "Supervisors would not, of course, be precluded from offering help and support, but the essential raison d'être would be an extension of control," writes Bottomley (366). Thus while the principles of rehabilitation would still be present in the actions of the parole board and parole officers, a new imperative of surveillance and control would prevail.

Bottomley's statement was prescient; this is precisely the shift that Sarah Turnbull and Kelly Hannah-Moffat describe in their 2009 article on gender and parole in the Canadian context. Turnbull and Hannah-Moffat argue that the passing of the *Corrections and Conditional Release Act* (*CCRA*) in 1992 ushered in an era of risk management in the Canadian federal parole system along lines

similar to that Bottomley describes. "Although parole still assists with prisoner reintegration," they write, "it is primarily oriented towards ensuring public safety through techniques of surveillance and risk management" (Turnbull and Hannah-Moffat, 535). Within the context of the parole system, rehabilitation, while still on the agenda, has been subordinated to the issue of public safety.

There are a handful of scholars who have described and analyzed the effects of parole conditions on the subjectivity of parolees in Canada (see, for example, Hannah-Moffat, Maidment, Pollack, and Shaw *et al.*). Turnbull and Hannah-Moffat's article "Under These Conditions: Gender, Parole and the Governance of Reintegration" provides a clear and incisive analysis of the material effects of parole board decisions from a feminist, anti-oppressive perspective. In "Under These Conditions," the authors study paroled women and the gendered effects of parole decision narratives, arguing that the prosocial behaviour that women paroled subjects are expected to exhibit conform to gendered expectations of domesticity and fidelity, and that women criminals in particular are constructed as psychologically unsound. "Institutional knowledges of women's lawbreaking and 'risk,'" Turnbull and Hannah-Moffat write, "perpetuate normative assumptions of femininity and generally treat women's problems as moral and psychological deficits that can be addressed through therapeutic interventions" (Turnbull and Hannah-Moffat, 538). The state occupies the role of therapist, but the tools at its disposal are primarily punitive. In setting parole conditions to address women's 'moral and psychological deficits,' the parole board "attempt[s] to govern through awareness by showing paroled

women what they need to do to become normative, law-abiding citizens" (539). Turnbull and Hannah-Moffat's discussion of the gendered effects of neoliberal parole conditions takes up the raced and classed effects of these conditions as well, and it is these aspects to which I will attend in my argument. Their feminist analysis of a risk society and its project of citizen-making can and should be extended to paroled subjects of all genders, while keeping in mind that practices of responsibilization will always affect people differently. For these reasons, I will consider several key aspects of their argument alongside my own analysis.

People on parole receive restrictions that are tailored to their particular circumstances. Often, parole conditions prohibit behaviours such as drinking, drug using, and associating with other ex-convicts. The conditions of parole, as well as the general parole system of community-based supervision, are intended to reduce a person's risk of re-offending. "As a form of targeted governance," however, the application of special conditions "focuses on the various 'risks' or 'deficits' ascribed to paroled women as a way to both remedy and monitor them" (Turnbull and Hannah-Moffat, 535). Turnbull and Hannah-Moffat reviewed the national data for the total population of federally sentenced women prisoners in Canada who were eligible for parole in 2000-2001. They analyze this data along with what they call the "parole decision narratives" of the National Parole Board (NPB), documents in which the NPB states its decision to grant or deny parole, whether it has mandated any parole conditions, and the reason for those conditions (533). Parole decision narratives reveal the workings of policy, as the

decisions signify the material outcome of discourses interpreted by parole board members.

The parole decision narratives speak from within neoliberal discourses of choice, responsibility, and risk management. For example, one parole decision narrative reads,

> Given your negative associates and your need at 20 years of age to follow the crowd and be overly influenced, a special condition to reside at a CBRF [community-based residential facility] for four months on full parole is viewed as reasonable and necessary. This residency will permit your participation in interventions to deal with various personal/emotional issues and to help you distance yourself from a criminal subculture. (cited in Turnbull and Hannah-Moffat, 539)

This parole decision narrative is not unique in its rationale. In many parole decisions, the paroled subject is both responsible for her 'deficiencies' and incapable of recognizing them or remedying them without punitive intervention. This is consistent with what the Canadian Association of Elizabeth Fry Societies and the Native Women's Association of Canada call "situations of hyper-responsibility" (CAEFS/NWAC, 382). Their essay "Women and the Canadian Legal System: Examining Situations of Hyper-Responsibility," examines the discourse of "responsibilization" in which individuals are expected to "make responsible choices away from poverty, addiction and criminal behaviour rather than having a government provide a social safety net" (393). Situations of hyper-

responsibility stem from neoliberal discourses of choice and responsibility, discourses that obscure the systemic nature of injustices caused by racialization, criminalization, and poverty that shape people's experiences and actions.

In her 2004 Program Strategy for Women Offenders, Doris Fortin, CSC Manager of Programs for Women Offenders, writes, "CSC's reintegration efforts are designed to offer an increased number of pro-social choices to help women become law-abiding citizens" (Fortin, 5). In practice, these reintegration efforts force parolees to police their own identities in order to attain membership in a governable and governed public. Identities are "never singular but multiply constructed across different, often intersecting and antagonistic, discourses, practices and positions" (Hall, 4). Identities, or "identifications," of subjects are constructed within discourse, and so "we need to understand them as produced in specific historical and institutional sites within specific discursive formations and practices, by specific enunciative strategies" (4). Here, I am interested in the ways in which the ideal paroled subject is produced through discursive formations, and through "the marking of difference and exclusion" (4). Parole conditions require people on parole to root out and erase those pieces of themselves that carry with them stigmas of criminalization; often, these are markers of racialization and class.

The condition of non-association exemplifies the ways in which parole conditions police identifications. Most non-association conditions require that recently released individuals avoid and report all interactions with those who have criminal records. Turnbull and Hannah-Moffat write that while it may seem

reasonable to separate someone from 'bad influences,' this condition might also isolate people from their closest sources of support, often found in those relationships they formed with others in prison (Severance; Pollack). Non-association conditions oversimplify the ease with which people develop and redevelop social networks. Such a task is never easy, but it is all the more difficult to socialize up the social/economic ladder, and even more so with a criminal record. Further, the conditions of non-association take on pointedly raced and classed implications: because racialized and working-class communities are over-criminalized, they are more likely to be the 'bad influences' with whom one should not associate (Turnbull and Hannah-Moffat, 543).

In order to remedy their ways, the paroled subjects must enmesh themselves in the heteronormative, settler, middle class public sphere that successfully performs citizenship and innocence. As such, paroled subjects are constructed as ungovernable until such time as they have successfully entered a non-criminalized social class. These pressures also manifest in conditions to abstain from alcohol. In mandating conditions to abstain from alcohol, parole decision narratives will often prohibit the parolee from entering bars and restaurants that serve alcohol as well. For the paroled subject, these types of spaces are "reduced to their propensities for criminal activity, and…are produced as always already criminal" (Herbert and Brown, cited in Turnbull and Hannah-Moffat, 545). While the non-criminalized middle-class public can be trusted to act responsibly in bars, the at-risk paroled subject is deemed incapable of doing so.

Such prohibitions contribute to the isolation of the paroled subject from their social networks.

This same phenomenon occurs with respect to the condition of transparency. Under this condition, the paroled subject reports changes in their life, usually pertaining to one's job, finances, and living situation. Parole officers, however, are granted a wide range of discretion in determining what constitutes a lack of transparency. Mark's personal narrative, one of three presented at the end of the March 2011 production of *Parole Sans Parole*, is instructive here. *Parole Sans Parole* is the theatre piece written and performed by the Termite Collective, and the object of more extended analysis in chapter 3. Mark writes that he was re-incarcerated for two years after neglecting to disclose to his parole officer that his girlfriend had been a stripper ten years earlier; his parole officer charged him with lack of transparency, a breach of his parole conditions.

Not only does the parole system require paroled subjects to report the criminalized behaviours of their associates, but in this case, Mark's parole officer expected him to report a legal behaviour with which he was barely associated, presumably because of its illicit sexual content and possible connection with criminalized activities such as solicitation. The moral and class-related taboos against all types of sex work render stripping an inappropriate behaviour that lies outside of the idealized Canadian citizen's frame of reference. As such, it takes on the status of the quasi-criminal – 'if she strips, what *else* does she do?' The lack of transparency condition thus functions similarly to restrictions on frequenting

bars, as paroled subjects must distance themselves from always already criminalized spaces and individuals, or risk re-incarceration.

These conditions of parole management compel the paroled subject to adopt the neoliberal attitudes of the multicultural settler public, and to reject (quasi-)criminalized social networks and behaviours in order to remain on conditional release. The parole board's main directive to parole officers is therefore to regulate the paroled subject's transformation from criminal outsider to multicultural settler citizen. Though a parole officer might also care for the improved social health of the individual on parole, it is not a requisite of a successful reintegration program. Parole policy therefore subordinates any concerns it may have for the paroled subject's genuine recovery post-release to its insistence that parolees transform themselves into governable citizens. Portrayed as irresponsible, untrustworthy, and criminal, the behaviours and associations of paroled subjects are under scrutiny and control. The parole system requires that the parolee conform to neoliberal structures of responsibility, while it manages and surveils those who prove incapable of such a transformation.

The *Roadmap* and Parole

Just as the parole board prioritizes the needs of the non-criminalized public, so does the *Roadmap*'s Review Panel sacrifice the offender's personal safety to the safety of prison staff and the broader community. Discursively, the *Roadmap* and the National Parole Board operate similarly. They both construct the subject of their attention as the 'unmotivated offender' who is made "hyper-responsible" for their choices and who can only shed their markers of criminality

through the neoliberalizing processes of education and responsibilization set out

by the parole system (CAEFS/NWAC). The *Roadmap*'s focus on earned rights

and privileges pushes Correctional Service Canada (CSC) even further toward this

model. Utilizing the language of earning one's way, the Review Panel's emphasis

on earned rights and privileges places the onus on the prisoner to prove their value

and worth as defined by the changing practices of parole. The first "key area" that

the Panel identifies in its "Roadmap for the Future" is, after all, "Offender

Accountability." According to the Panel, "if rehabilitation is to occur and truly be

sustained, it must be a shared responsibility of CSC and the offender" (*Roadmap*,

vii). As an "accountability contract" between offender and parole board, the

system of earned rights and privileges binds prisoners in an ostensibly equally

weighted relationship with their jailers (107).

The Review Panel's hyper-responsibilization strategies, therefore, mirror

those of the parole system. The Panel recognizes the parallels in the policies and

philosophies of the corrections system and the parole system, advocating the

continued cooperation between the two in what it calls a "seamless continuum of

care" (*Roadmap*, 156). In advancing this term, the Panel envisions prison

administrators and parole officers working together regarding a particular

prisoner, enabling a seamless integration of all stages of incarceration and release.

In this way, the institutional correctional plan for a prisoner will "seamless[ly]

blend" with their community correctional plan (106). The Panel writes that the

first step toward a 'continuum of care' model requires prison administrators to

secure "clear statements of offender accountability with respect to expected

behaviour in the community" (106). The Panel's first priority along the 'continuum of care,' then, is not that CSC 'care' for its offenders, but rather that offenders assume responsibility for their past and continuing actions upon release. What type of care, if any, does this 'seamless continuum of care' provide? The Panel states, "these initiatives [the seamless continuum of care] can only succeed in safe environments, with staff that are knowledgeable and well trained" (58). The continuum of care as recommended in the *Roadmap* thus calls for offender accountability and staff safety, while it rarely mentions offender safety, and requires administrative accountability only when offenders have earned it.

There are several snags in the Panel's construction of a 'seamless continuum of care' vis-à-vis parolees. One is the policy of statutory release. Under statutory release, people serving time in Canadian federal prisons are automatically released after having served 2/3 of their sentence, and serve the remaining 1/3 under parole supervision in the community. The Review Panel believes that statutory release runs counter to a positive work ethic inside prisons, and reduces public safety outside of prisons. If a prisoner is aware that they will be released automatically, why will they be motivated to change their behaviour while serving time in prison? According to the Panel, the offender will be content to "wait out" the system (v). Statutory release is seen as a "key disincentive to offender accountability" (x). Further, "most of the violent re-offending by federal offenders is done by those on statutory release" (ix). Members of the Panel conclude that "to improve public safety and re-orient the correctional system to a system that places true accountability on offenders is to require offenders to earn

their way back to their home communities" (ix). Given these conclusions, the Panel recommends the abolition of statutory release as a policy and a practice.

The Indigenous offender on statutory release

By targeting statutory release, the Review Panel makes visible the histories and continuing practices of Native criminalization that it has strategically forgotten. The *Roadmap*'s recommendation to abolish statutory release will not transform 'volitional criminals' into 'obedient citizens'. Rather, it will further punish those people, overwhelmingly Native, who are already struggling in the prison system. From this vantage point, the Panel must believe that certain offenders simply deserve to be punished. Where the discourse of the parole system describes a responsible subjectivity on which paroled subjects are expected to mold themselves, the *Roadmap* doubts the ability of the offender ever to be a responsible subject. Incarcerated men and women are always already, and forever, criminal. In the political context of the *Roadmap*, the offender and the paroled subject are cast out of responsible subjectivity by being judged in comparison to it.

The *Roadmap* argues that statutory release is a key disincentive to following one's correctional plan and earning parole. Yet when the 1969 Ouimet Committee recommended statutory release (which became legislation in the *Parole Act* of 1970), its target was the type of offender who would never qualify for parole. Prior to 1970, a person serving time in the federal Canadian system could qualify for parole; if they did not qualify for parole, they would still be released automatically after serving 2/3 of their sentence, providing they had not

lost time through 'bad behaviour.' This practice of automatic release after serving 2/3 of one's sentence had been instituted in 1868. Upon automatic release, there was no community supervision required of the recently released individual. In 1969, the Ouimet Committee wrote that "the practice of paroling only the better risks means that those inmates who are potentially the most dangerous to society are still, as a rule, being released directly into full freedom in the community without the intermediate step represented by parole" (Ouimet, cited in Jackson and Stewart, 103). Thus while prisoners who demonstrated that they had been 'rehabilitated' achieved early release on parole and were subject to supervision in the community, those who the parole board deemed to be continuing dangers to society remained in prison longer, and were subsequently automatically released after 2/3 of their sentence with no further community supervision.

The substance of the Ouimet Committee's recommendation, first labeled mandatory supervision and later known as statutory release, was that the individuals released after serving 2/3 of their sentence be subject to a compulsory form of parole until the end of their sentence. Effectively expanding the carceral gaze by fifty percent, "mandatory supervision was not popular with prisoners" (104). Although statutory release increased the surveillance of a category of 'dangerous offenders' whose automatic release after 2/3 of their sentence had been standard procedure since 1868, statutory release "became associated with early release rather than extended supervision in the minds of the public and many politicians" (104). Jackson and Stewart write that the *Parole Act*'s statutory release legislation alerted the public to a seemingly lenient practice of releasing

offenders after 2/3 of their sentence, and the Ouimet Committee's substantive, punitive recommendation to add parole supervision to the remaining 1/3 of offenders' sentences passed unnoticed.

The Review Panel bases its recommendations upon this misconception of the Ouimet Committee's motives as well, associating statutory release with the early release of unmotivated, violent people rather than with a method to continuously supervise those offenders who will never qualify for parole. Yet the *Roadmap* retains the Ouimet Committee's principle that individuals cannot simply be released from prison without further supervision. In this regard, the Panel recommends a review "of how community-based interventions would be retooled to meet changing requirements for supervision and service delivery" following the abolition of statutory release (*Roadmap*, 112). Here, the Panel subtly argues for a period of compulsory parole supervision after one's sentence has ended – a recommendation that would significantly extend the carceral gaze.

The Panel's recommendation to abolish statutory release rests upon a misconception of its original purpose as clarified in the Ouimet decision. The *Roadmap*'s argument that the paroled subjects who most often violently re-offend are those who have been granted statutory release (rather than having qualified for early parole) is circular. One's eligibility for parole is based upon risk assessments measuring the likelihood of re-offending; the less one poses a risk to society, the more likely one is to be paroled. Logically, then, one would expect those denied parole to be the more likely to re-offend.

Jackson and Stewart argue that the *Roadmap*'s statistics are also alarmist and inflated. While it is true that most violent re-offences occur on statutory release, the numbers of violent re-offenders remain small. Where the *Roadmap* states that "violent reoffending rates are three times higher for statutory releases than for discretionary releases," Jackson and Stewart counter that between 2002 and 2007 "the average rate of violent offending by those on parole [was] 1.16% while the average for statutory release [was] 2.5% – a difference of only 1.34%. To generate the alarming relative rate of 300% only the data in the last year was used" (*Roadmap*, 113; Jackson and Stewart, 106). "In fact," they write, "the overall rates of both violent and non-violent reoffending by those on statutory release have been dropping steadily from an already low rate for many years" (Jackson and Stewart, 106). Yet "the Panel is concerned about the statistics on statutory releases," and warns that "the risk posed by these offenders and the potential for even greater risk as a result of the changing profile of the federal population points to the need for change" (*Roadmap*, 113). The final argument for the abolition of statutory release rests upon the idea that there will be an increase in offender violence and volitional criminality as the profile of the offender changes.

As I discussed in my previous chapter, the construction of the Changing Offender Profile relies upon historical constructions of the unmotivated, Native offender in need of education. The Review Panel's arguments regarding statutory release are similarly constructed. The obstacles to qualifying for parole are very closely tied to the image of the offender created in the Changing Offender Profile.

Correctional Investigator Howard Sapers has spoken to Parliament on the systemic discrimination of Native people throughout the prison system. Listing the multiple ways in which Native people receive disproportionately harsh treatment, Sapers argued that routinely ending up in high-security classifications and solitary confinement "limits one's access to rehabilitative programming and services intended to prepare inmates for release and successful reintegration into society" (Sapers, cited in Jackson and Stewart, 152). Andrew Welsh and James Ogloff's study on the factors that influence the granting of full parole found that Indigenous people in prison "were significantly less likely to apply for and be granted full parole as compared to" non-Native people (Welsh and Ogloff, 470). Their study is the first of its kind. There has otherwise been no systematic research undertaken to determine whether people have adequate access to information regarding their eligibility for conditional release while in prison. "Given that a larger proportion of aboriginal offenders waive their full parole hearings coupled with increased reports of negative perceptions with respect to correctional staff among aboriginal inmates (Johnston 1997)," they write, "it is not unreasonable to suggest that there may be some differences in knowledge of and attitudes toward conditional release procedures between aboriginal and non-aboriginal offenders" (487).

A study of pre-sentence reports in Ontario found that although there was no evidence of overt racism, there were "examples of negative subjective contextualisation of race and offending" (Denney, Ellis and Barn, 11). Corrections officers tend to associate particular groups of people with particular

characteristics, as in "the supposed inability of Aboriginal people to control their anger" (11). Most of the staff Denney *et al.* interviewed also far preferred the language of multiculturalism to that of anti-racism. Explanations of behaviour in pre-sentence reports written by prison staff "tended to be based on cultural differences and not on an analysis of imbalanced power relations leading to socio-economic disadvantage" (11). This report concludes that while Ontario's commitments to anti-racist sentencing procedures are admirable in theory, the "actual practices" of corrections officers have yet to catch up to Ontario's policies (16).

The likelihood of a Native person to be characterized as criminal in a pre-sentence report and the unlikeliness of a Native person to apply for parole are not isolated incidents, and the injustices inherent in these soft statistics will never be made visible in the language of multiculturalism. By focusing on offender accountability and motivation, the Review Panel sidesteps an analysis of the structural limitations to qualifying for parole. According to Jackson and Stewart, "the continuous focus of the Panel on 'motivation' as a primary factor that determines release on parole overlooks the enormous barriers to parole faced by so many prisoners and ignores or minimizes what would be required to overcome them" (109). Emphasizing motivation and accountability, the *Roadmap* reinscribes the racialization of criminality and ignores the structural barriers that have contributed to a 'staggering injustice.'

Outside of official statistics and academic studies, there exists ample anecdotal evidence of the racialization of criminality. The "stickiness" of the

Indigenous offender category – a "relation of 'doing'" in which 'criminality' sticks to 'Indigeneity' – uniquely surfaces in another of the monologues that conclude *Parole Sans Parole* (Ahmed, 91). In this monologue, Pat, a man currently applying for parole, presents some of his experiences with the parole system. In determining a prisoner's parole eligibility, case officers and parole board members often use risk assessment diagnostic tools that evaluate the likelihood of a potential parolee's recidivism. Pat undertook a risk assessment process and received a score that indicated that he was unlikely to re-offend. Later, Pat learned of his Indigenous descent and applied for legal Native status. At that point, his previous assessment score was invalidated, as it did not account for his minority status. Pat was re-tested under a different scale. The second risk assessment tool calculated Pat to be a much higher risk than did his previous assessment. As a result, he is now less eligible for parole. Pat also received a psychiatric assessment stating that due to his Native background, his risk of re-offending will increase with alcohol use. This echoes the findings of Denney *et al.* that corrections officials automatically associate racialized communities with their negative stereotypes. It took Pat close to three years to remove that statement from his case file, during which time his case status was frozen and he lost the privileges he had previously earned.

In speaking at a Montréal event on resisting colonial (in)justice in May 2011, Mohawk activist Dan Doreen said, "when we talk about injustices, we can talk about injustices that keep happening, and keep happening, and keep happening" (Doreen). The small studies and anecdotes detailed in this chapter

exemplify the ways in which injustices in the parole system keep happening. The *Roadmap*'s focus on the offender's 'choice' to sit and wait out their prison sentence covers over the systemic, racialized profiling of the lawless, unmotivated, uneducated, dangerous Native prisoner and the coercive system in which they are imprisoned. According to Jackson and Stewart, "a strong case can be made that the aggravating impact of the abolition of statutory release on the systemic discrimination facing Aboriginal offenders should in and of itself be sufficient reason to reject the Panel's proposal" (Jackson and Stewart, 114). The Panel's proposal, however, ignores this systemic discrimination, preferring to construct a narrative of hyper-responsibilization that focuses primarily upon offender accountability.

Rehabilitation as 'Phantasm'

There have been a number of statements that Conservative party members have made to the press that indicate a different dimension to the *Roadmap*'s recommendation. Stephen Harper appointed Pierre-Hugues Boisvenu to the Senate in April 2010. *Globe and Mail* reporter Lysiane Gagnon views Harper's choice as another indication that "the Harper government doesn't seem to believe in rehabilitation" (Gagnon). Boisvenu is a major figure in victims' rights work, having established l'Association des familles de personnes assassinées ou disparues (AFPAD) after the rape and murder of his 27-year-old daughter. In the course of his work, he routinely campaigns for the rights of victims over and above the rights of criminals, and receives public honours for his community work (see "Man Serving Life Seeks Contact"; "Boisvenu is a Québec hero").

Boisvenu has referred publicly to rehabilitation as a "phantasm," and Gagnon believes that he is "settling his score with the men on parole, one of whom murdered his daughter" (Gagnon). Though accountability remains a salient factor in this discourse, one can see a different argument emerging as well – one that constructs particular offenders as unredeemable, and whose hopes of rehabilitation are fantastic.

Considering Boisvenu's role as victims' rights advocate, we must also consider the desire to punish that inflects victims' rights discourse. Some victims' rights movements attempt to reconcile a "cultural preoccupation with vengeance" with "forms of legal punishment which deny it" (Aladjem, cited in Sarat, 164). As such, victims' rights movements "seek to enlist the loyalty of judges and juries in a quest for revenge" (Sarat, 164). This is not always the case – victims' rights movements vary widely in political motivation and mandate. Pierre-Hugues Boisvenu, however, seems to epitomize the tendency to "scramble" the categories of personal vengeance and legal justice, "us[ing] legal processes to express…[his] grief and rage" as he ascends to the Senate while 'settling his score with the men on parole' (164). The work of Conservative appointees such as Boisvenu thus constructs a position of unity between politicians, victims and the Canadian public, a coalition that uses the law to seek revenge upon the irredeemable, volitional criminal.

The case of Graham James illustrates the Conservative construction of the irredeemable offender. In 1997, James was convicted of "repeated crimes [sexual assault, beginning in the 1980s] against teenaged hockey players," and he then

served a three and a half year prison sentence ("Ottawa Vows to Crack Down"). In 2007, the National Parole Board (NPB) granted James a pardon that eased his travel restrictions, and cleared his record from employer background checks unless the employment involved working with children. Exclusively granted by the NPB, pardons most often clear a person of all or part of their criminal record. A pardon is therefore a method by which the NPB judges a person 'redeemed.' As such, the same tropes of rehabilitation and irredeemability come through in questions of pardons as in questions of parole eligibility and conditions. Three years after James received that pardon, the NPB's decision "so angered Prime Minister Stephen Harper that he called Public Safety Minister Vic Toews on [Good] Friday demanding new legislation to limit the practice" of pardons ("Ottawa Vows to Crack Down"). The Conservative Party took action, and two months later, on June 29, 2010, the *Limiting Pardons for Serious Crimes Act* took effect, a bill that "will, among other changes, ensure that the waiting period to apply for a pardon better reflects the severity of the crimes committed" ("Limiting Pardons for Serious Crimes").

Though the John Howard Society warned against punitive legislative amendments in response to outrage over a particular case, Toews argued that particular cases were the target of such amendments. "Certain types of criminals cannot be rehabilitated," Toews said ("Ottawa Vows to Crack Down"). The newly passed *Act* applies to "people convicted of a serious personal injury offence, including manslaughter, who received a prison term of two years or more, as well as those convicted of a sexual offence related to a child, prosecuted by

indictment" ("Limiting Pardons for Serious Crimes"). Toews' statement, translated into legislative action, refers to all people convicted of serious personal injury offences. Through statements such as this, the Conservative administration has (re)introduced the category of the offender who is beyond rehabilitation, broadening its definitional parameters in the process.

The *Roadmap*'s recommendation to abolish statutory release fits within this framework of the extended punishment of the irredeemable perhaps even more appropriately than in a discourse of rehabilitation through accountability. The remarks above, by prominent Conservative politicians, mark a further narrowing of the subject position granted the offender seeking parole. No longer capable of the transformation to a neoliberal, multicultural citizen, the criminal remains a criminal. The *Roadmap* pursues this strategy as well, and in doing so, it participates in a long tradition of marking the racialized criminal as volitionally criminal and incapable of rehabilitation.

John Sloop and Angela Davis have both traced this phenomenon in the United States. In *The Cultural Prison*, Sloop argues that over the course of the 20th century white and women prisoners have been consistently "prefigured as rational and redeemable" in mainstream cultural productions, while incarcerated men of colour "are the product of a historical construction that posits them as irrational and violent [and so] are represented as being placed into the confines of prison cells, unable to gain a voice in the public forum" (Sloop, 184). Sloop further contends that those who are prefigured as rational and redeemable gain access to alternative sentencing options such as electronic monitoring, and are

consequently able to voice their support for the punishment system as "the right path after all, reaffirming their own representations within it, and giving 'law-abiding citizens' the comfort of knowing that their own behavior is normal and beyond reproach" (Sloop, 184). The *Roadmap*'s construction of the offender works along these lines. Hyper-responsible, irrationally unaccountable, and locked up, the *Roadmap*'s (portrayal of) offenders seeking parole are not given the space or the voice to reaffirm or contest representations of themselves.

The supposed redemption available through neoliberal parole decision narratives is accessible only to those paroled subjects who are able to fit themselves into the prescribed categories of the rational and redeemable. As an extension of this principle, the *Roadmap*'s recommendation to abolish statutory release furthers the neoliberal imperatives of choice and accountability, disregarding the structures of racism, colonialism, and classism that inform parole decisions. The realities of parole decisions most affect the over-criminalized, a fact that has been documented extensively but that the Review Panel ignores, or strategically forgets. Instead, the Review Panel focuses upon the offender's lack of motivation, a position that closes the discursive and representational space granted the prisoner/parolee even further. There are moments and spaces, however, in which people in prison, and formerly incarcerated individuals, speak directly to their positioning in official policy and practice. These moments are multiple, but they are often small in scale and reach far fewer audiences than a federal policy document, or national news articles, might.

The next chapter examines one such text, the Termite Collective's theatre piece *Parole Sans Parole*. Through its innovative theatrics that filter the Collective's knowledge of policy and practical concerns through popular culture references and satire, *Parole Sans Parole* employs tactics that respond to the neoliberal and conservative discourses that have crafted the criminalized subject in Canada, affirms complex subject positions for incarcerated and criminalized individuals, and creates new modes of understanding criminality and the public.

As a group in which incarcerated and non-incarcerated people work together to create public education initiatives and simply help each other live, the Termite Collective accomplishes several key goals of a prison abolition tactic. First, the collective's viewpoints and arguments are based in the lived experiences of its incarcerated members, and it amplifies their voices so that they can be heard outside of prison walls. There is no way to have a meaningful conversation regarding prison policy while prisoners are shut out of the conversation. Second, its definition of public safety shifts to include the physical and psychological safety of prisoners as well. As a result, public safety is no longer a method of maintaining the colonial national project, as its goal is no longer the protection of the multicultural settler citizen. It is therefore not the purview of state security forces, but is rather an open and continuing conversation between directly affected individuals.

Chapter 3. The transformative space of *Parole Sans Parole*

"Once in the industrialized punishment system," Ruth Wilson Gilmore writes, "it is hard to stay out" (185). Parole policies construct neoliberal, multicultural settler subject positions for paroled subjects to occupy. These positions are only available to those parolees whose gender, race, class and sexuality markers qualify them to be redeemable citizens. As I have argued, the *Roadmap*'s recommendation to abolish statutory release exacerbates the existing difficulties of securing access to parole. In producing the irredeemable, volitional criminal, the *Roadmap* creates a fearful, settler public whose 'right to a safe neighbourhood' requires punitive parole policies and conditions.

Disputing the colonial construction of the law-abiding Canadian public and its right to be protected from 'criminals' is a difficult task; these are beliefs that are 'common sense,' and that support the Canadian project as a whole. To contest these constructions requires the work of remembering. It requires the work of repeating historical and present oppressions, and of remembering past struggles against those oppressions. Further, in order to reshape public discourse on imprisonment, the very 'public' of which we speak has to change.

Though public opinion does not exist, as Bourdieu flatly stated in his eponymous 1972 article, the construction of the public is a powerful force. If it is a law-abiding, fearful settler public to which one addresses oneself, one can define 'safety' as the exclusion and punishment of the criminal figure. *Parole Sans Parole*, a performance piece by the Termite Collective, speaks to a different type of public than the one addressed by the *Roadmap* and Conservative Party

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members. Rejecting the neoliberal citizen-making projects of parole conditions and the *Roadmap*, the creators of *Parole Sans Parole* are able to think outside of the idealized Canadian citizen's set of identifications. The play demonstrates that prisoner identifications are multiply constructed by presenting the diverse situations and experiences of its writers and actors through an even more eclectic use of farce and satire. *Parole Sans Parole* reverses positions of power through techniques of the carnival, ultimately linking the physical and political safety of the non-incarcerated to the safety of the incarcerated. This particular performance strategy radically changes the ways in which publics can be positioned and spoken to about the lives of prisoners and parolees and the issues they face in the current state of Canadian imprisonment.

Parole Sans Parole* is a response to longstanding administrative policies and rhetoric practiced by Correctional Service Canada (CSC) and the National Parole Board (NPB). The Collective crafted the document in a very short amount of time, in order to respond to the policy shifts I've discussed thus far. *Parole Sans Parole* directly addresses a visible public and encourages feedback and discussion. It has a very small range of influence, and it is, in part, written and performed by those who are directly affected by the policies it discusses. Because of these tactics, the play's breadth of historical and cultural remembering outranks the work accomplished by the Review Panel.

In its particular use of theatre, *Parole Sans Parole* draws upon the traditions of satire, carnival and silent comedy that have historically functioned as spaces for social critique and the creation of alternate social realities. Working in

the discursive space of *The Twilight Zone*, *Mr. Rogers' Neighbourhood*, silent film, slapstick comedy, the circus, and the prison drama, the play enriches its political work through popular culture's more resistant and subversive genres. In the process, *Parole Sans Parole* addresses what Michael Warner calls a "counterpublic," a public whose constituent values run counter to those of the dominant public. Remembering past injuries, *Parole Sans Parole* momentarily breaks the hold of the past. In its own rewritten present, the play rejects the *Roadmap*'s formulation of public safety and asserts the importance of prisoners' well being to any meaningful sense of public safety. In so doing, it opens up a present and a future of pain, justice, and promise.

The art of the tactic

Parole Sans Parole is an hour and a half long workshop developed by the Termite Collective that uses performance as a means to entertain its audience, convey information, and provoke group discussion. It is an expression of the Termite Collective members' frustration with the parole process and the neoliberal and conservative discursive constructions of the offender. The members of the Termite Collective live both inside and outside of prison. According to their publicity materials, the Termite Collective tries "to understand prisons within a wider context by talking through ideas, information and knowledge which can be hard (or impossible) to access on the inside" ("A Termite's Approach"). As the Collective members prepared to present a workshop at Study in Action in March 2011, a conference at Concordia University in Montréal that focuses on students' work in the community, they

wished to publicize and present an issue that the incarcerated members of the Collective were struggling with, and that those who were attending the conference might not have given much thought. The lifers in the Collective will be on parole for the rest of their lives, once they are released from prison. For these members of the Collective, the threat of re-incarceration will be ever-present. In light of the drastic reduction in temporary passes granted to prisoners and the increasing severity of parole conditions that some members were facing, the Collective decided to focus its activities on parole.

Parole Sans Parole responds to both the sedimented processes of parole and to the recent changes in conditional release practices following Harper's 2006 election. I chose it as the focus of this chapter because of the articulate and interesting way the Collective uses theatre to present a different vision of the parole system through participants who will live under its conditions. I began spending time with members of the Termite Collective as I was preparing to write my thesis. I watched them develop the play, and I then came to a play a minor role in its production, operating the sound effects and slideshow. Originally an extra-curricular activity, the play soon became a major focus of my academic search for innovative public education projects that might disrupt the closed loop of politicians and journalists that so dominates discussions of Canadian federal prison policy. The intent of the Termite Collective is to educate its audience on parole, an aspect of the punishment process that is rarely addressed outside of scandalous mainstream news articles of violent re-offending and CSC itself but that is, in fact, a lived experience for all prisoners.

At the time of my writing, the Termite Collective had performed *Parole Sans Parole* twice; at the March 2011 Study in Action conference, and at Montréal's Anarchist Bookfair in May 2011. On both of these occasions, the Collective addressed a crowd that was, on the whole, already skeptical of the efficacy of prisons. The play, however, is directed at a general audience and does not assume that its audience members have any prior knowledge of prison policies, direct experience with incarceration, or specific political position. Some of the members of the Termite Collective have been incarcerated for ten years or more. As they began to write the play in January 2011, they were contending with the increasingly restrictive Harper administration, whose actions, rhetoric and legislative proposals signaled darker times to come.

The title of the play speaks to the Termite Collective's priorities of genuine dialogue and exchange, and to its recognition that such dialogue is impossible in official and mainstream debates on prison. In French, *parole* means 'promise,' as in, to give one's word, and it also means 'the spoken word' more generally. The system of parole originated from the French word *parole*, as a person being released on parole would give their word of honour to abide by certain restrictions. *Parole Sans Parole* plays upon the disconnect between the cross-language homonym (the contemporary French term for parole is not *parole*, but *libération conditionelle*) to communicate a situation in which the incarcerated or paroled subject is unable to secure concrete information from, nor engage in real conversation with, corrections staff and parole officers regarding their circumstances. The title also evokes de Certeau's distinction between *langue* and

parole, inviting a reading of the play as a "tactic" that the Termite Collective mobilizes in its fight against the prison industrial complex (de Certeau, 37).

In the play's opening sequence, a Collective member steps onto the stage dressed in a jacket and tie, accompanied by the introductory music from *The Twilight Zone*. In the grandiloquent tone of *Twilight Zone* narrator Rod Serling, she addresses the audience: "What you are about to experience is like being in another dimension – a journey into a land that boggles the mind. Surreal as these stories may seem, these stories are true. A truth that is hardly ever written, but a truth that is real nonetheless. You are entering the 'Parole Sans Parole' zone" (*Parole Sans Parole*). The Termite Collective member speaks of truths that reside in stories; though they are told and rarely written, the truths are 'real nonetheless.' Perhaps it is in the telling of otherworldly stories that one can begin to approach the strangeness of reality, and this is why *Parole Sans Parole* is a theatre piece rather than a formal presentation.

In thinking through the everyday ways in which people speak, walk, and live, de Certeau cites Saussure's distinction between "'langue' (a system) and 'parole' (an act)," a distinction that compares "the former to a fund of capital and the latter to the operations it makes possible: on the one hand, a stock of materials, on the other, transactions and uses" (de Certeau, 32-3). Where *langue* signifies the overarching system of language, *parole* represents the uses to which that language is put, the "words and sentences of which the reference cannot be determined without knowledge of the context of use" (Bar-Hillel, cited in de Certeau, 33). In this regard, one can view *Parole Sans Parole* as distinguishing

between the official policies of parole that overdetermine conditions of release, and the everyday exchanges that are difficult to record and are often erased from official narratives. The *Twilight Zone* narrator acknowledges that the truth of *parole* is hardly ever written down. In performing the *parole* that is covered over in official discourses of parole, the Collective asserts the legitimacy of the spoken word.

As an instance of "the dispersed, tactical, and make-shift creativity of groups or individuals already caught in the nets of 'discipline,'" *Parole Sans Parole* parodies the laborious stages of the parole system in order to "resist…being reduced to it" (de Certeau, xiv-xv; xiv). Even as it creates resistance to that which dominates it, the Termite Collective still speaks from deep within the carceral system. This is the condition of de Certeau's tactic, in contrast to strategy. In de Certeau's theory, a strategy requires actors to stake out an autonomous, delimited territory of action. Though the Termite Collective certainly looks toward a future of justice without prisons and freedom without surveillance, it is also aware that for the foreseeable future its actions occur within "the space of the other" (37). As they perform at local events to a small audience, the members of the Termite Collective are hyper-aware that "No delimitation of an exteriority…provides it with the condition necessary for autonomy" (37). In other words, no territory of public action is outside of the state's purview. For those members of the Collective seeking parole, being associated with the message conveyed in *Parole Sans Parole* would negatively impact their personal cases. Written collaboratively by all members of the Termite Collective, *Parole*

Sans Parole was for the most part performed by non-incarcerated members who felt safe enough to criticize the parole system in public. Some of the other performers in the play did not feel safe enough to make themselves visible, but performed despite the risks involved, out of a sense of deep outrage and desire to take constructive action.

The Termite Collective's name signifies its awareness of the limitations it works within and the power that it envisions for itself. Working within the structure, seemingly small and insignificant, the Collective hopes to join forces with thousands of like-minded individuals who might gradually eat away at the system's supports, much as real termites do. This is the art of the tactic, which "must vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers" (de Certeau, 37). Working within the small spaces that occasionally open into political possibilities, the Termite Collective is proudly opportunistic and always vigilant.

There is also a sense in which "What it wins it cannot keep" (37). The Termite Collective granted me permission to discuss their theatre piece, but was not comfortable with my request to audio record the play, nor with providing me with the script. Because I operated the lighting and sound for the production, I was unable to write down the text of the production as it was performed. The safety and security of the members of the Collective is highly important; they produced *Parole Sans Parole* from positions of unfreedom, in light of particular known risks that accompany the roles they chose to occupy in the production of the play. I analyze their public performance within the bounds that they have

specified in order not to exacerbate the risks their members face. As such, I am at times unable to quote directly from the play, and will paraphrase accordingly.

The risks of forcing *parole* into the system of parole are thus significant. The Termite Collective hopes to build upon the play's achievements in conversation and solidarity with its audiences, even as it has no "illusion that…[the order of things] will change any time soon" (de Certeau, 26). Though its membership must remain anonymous and its production unrecorded, the Termite Collective measures its successes differently. *Parole Sans Parole* affirms the capacity of the imprisoned subject seeking parole to fit the neoliberal notion of the responsible subject, speaking out against the conservative turn as exemplified in the *Roadmap*. The play then goes further than that, moving through a cultural history that links the play to theatrical traditions of resistance.

Where the *Roadmap* discursively and geographically isolates the offender from the general public, *Parole Sans Parole* establishes connections to its public through a project of collective remembering in a rare moment of shared physical space. In this space, the Collective affirms the imprisoned subject's capacity to exist in this world not just according to the state-enforced bounds of a neoliberal, liberated subject, but as a free subject ("The Ethics of the Concern of the Self"). Able to understand their circumstance, the imprisoned subject of *Parole Sans Parole* demonstrates the ability to act responsibly in the sense required by a society managing risk in the pursuit of public safety, but moves beyond that demonstration to criticize those neoliberal structures of parole management and discipline in order to imagine different possibilities.

The *Parole Sans Parole* zone

Parole Sans Parole uses as its structuring frame the narrative voice of Rod Serling from *The Twilight Zone*. After each segment, the actor in a suit and tie steps into the scene and paraphrases the words of Serling, creating the eerie, allegorical atmosphere of the '*Parole Sans Parole* zone.' In this way, *Parole Sans Parole* locates itself within the tradition of science fiction and satire, two genres that often put forward incisive political critique under the frame of fantasy and hyperbole. Introducing a scene in the middle of the play, the *Parole Sans Parole* actor warns the audience, "you enter this world at your own risk." The dangers of the *Parole Sans Parole* world are so threatening because the *Parole Sans Parole* dimension is "not a new world" but "merely an extension of what began in the old world." The *Parole Sans Parole* world "has patterned itself after every power hungry ruler who has ever planted the ripping imprint of a boot on the pages of history since the beginning of time. Like every other disciplinary apparatus that has preceded it, it has one primary rule: logic is an enemy and truth is a menace" (*Parole Sans Parole*). Otherworldly as it may seem, the narrator informs us, the world envisioned in *Parole Sans Parole* has been modeled upon real-world repression and discipline. "These words, so appropriate to what you will be witness to," she concludes, "are of Rod Serling, from *The Twilight Zone*" (*Parole Sans Parole*). At this moment, then, *Parole Sans Parole* directly quotes Serling, and explicitly aligns itself with his condemnation of state repression.

By adopting *The Twilight Zone* as its narrative structure, *Parole Sans Parole* recalls an earlier era of state security and extreme paranoia that rendered

explicit political expression impossible. *The Twilight Zone* was an anthology

series that ran from 1959 to 1964 and has been classified as a "distinctively new

form…of entertainment" even as it "included elements derived from theater, film,

radio, print and television predecessors" (Booker, 50). A part of the show's

distinctiveness had to do with its science fiction thematics, which were only

beginning to emerge in cinema and television (Worland, 103). "Concomitant with

the historical period of its ascendance," writes Rick Worland, "the genre was

suffused with anxiety about The Bomb, alien Others, dehumanization,

technology, invasion – in short, issues of the Cold War" (103). The 1950s marked

the beginning of Cold War anxiety, not only regarding the external Soviet threat,

but internal Communist elements as well. The state heavily surveiled the

entertainment industry. Television during this time existed within "a repressive

political climate that obstructed presentation of any ideas outside the

commonplace" (104). Acutely aware of his environment, Serling "avoided

network and sponsor interference by masking the social and political subject

matter under a sci-fi guise of Martians, Vensusians, and robots" (Stanyard, 2).

Just as "the Red scare cast a pall over the medium that lasted for decades," the

threat of reprisals for prisoners who critique the system that oppresses them

pushes prisoners to express those criticisms obliquely, anonymously, and in the

realm of fantasy (Worland, 104).

In its use of *The Twilight Zone* and its overall representation of the parole

process in a theatrical, exaggerated format, *Parole Sans Parole* participates in the

long tradition of political satire. M. Keith Booker relates *The Twilight Zone* to

Bakhtin's description of the menippea, a description that serves equally well for *Parole Sans Parole*: "The most important characteristic of the menippea as a genre is the fact that its bold and unrestrained use of the fantastic and adventure is internally motivated, justified by and devoted to a purely ideational and philosophical end" (*Problems of Dostoevsky's Poetics*, 114). As we shall see, the ethical and philosophical questions posed by *Parole Sans Parole* are introduced through the 'bold and unrestrained use of the fantastic' in precisely this way.

A safe neighbourhood

The first complete scene of *Parole Sans Parole* responds to recent policies of the Harper administration, and speaks to Bakhtin's formulations of both satire and carnival. Entitled "Mr. Harper's Neighbourhood," the scene references the popular children's show *Mister Rogers' Neighborhood* that ran from 1968 to 2001, the second longest running series on PBS. "Mr. Harper's Neighbourhood" adopts the Conservative Party's discourses of public safety and criminalization, and provides the audience with information detailing the increasing restrictions upon prisoners' mobility outside of prisons. At once informative and critical, the scene builds an alternative geography that is uncomfortably similar to that mapped out by Stephen Harper, forcing the audience to reflect seriously upon the actor's characterization of 'safer communities.' By presenting this information through a parody of *Mister Rogers' Neighborhood*, the Termite Collective points to the mutually reinforcing links between racist, conservative discourses of safe neighbourhoods such as those relied upon in the *Roadmap*, and the longstanding cultural production of safe, white communities. In drawing out the links between

political and cultural imperatives to protect multicultural, settler territory, the scene begins the process of creating a genuinely alternative subject position for both prisoners and publics.

"Mr. Harper's Neighbourhood" features an older, white, incarcerated man in a cardigan seated at a desk, addressing the audience as Stephen Harper would address the Canadian public. He welcomes his audience to his neighbourhood, sweeping his arm across the space while sighing. The streets are now safer for Canadians, he exclaims, free of criminal elements, thanks to him. The number of temporary absences granted to people in prison, Harper informs his public, has dramatically declined since his party's election. As a general rule, the parole board and, at times, wardens, grant lifers escorted temporary absences (ETAs) and unescorted temporary absences (UTAs) to leave the prison for such reasons as "going to visit family, a doctor's appointment, an outside Alcoholics Anonymous meeting, a chaplaincy run group and other groups" (*Parole Sans Parole* pamphlet). In the scene, Harper gleefully recounts the statistics indicating the decline in ETAs and UTAs. According to CSC, the number of ETAs fell from 5,208 in 2006 to 4,210 in 2010. In 2006, the parole board awarded 574 UTAs, and only 399 in 2010. Work release figures in 2010 were stark as well, descending to 212 people in federal penitentiaries on work release programs, from 686 in 2001 ("Fewer Convicts Allowed to Roam"). After detailing the ways in which his government has contributed to the safety of the neighbourhood, Harper asks of his audience, "Aren't you happy? Don't you feel safe?" He allows these questions to hang in the air, and then resumes his celebratory speech. Harper asks these

questions several times throughout his speech, each time facing his audience directly. Finally, accompanied by two vultures, he leaves the stage as he entered it, to the tune of *Mr. Rogers' Neighbourhood*.

Though *Parole Sans Parole* transports its audience to another dimension, the space it constructs in "Mr. Harper's Neighbourhood" defamiliarizes the culturally recognizable. Mr. Rogers, as the familiar paragon of safe, white, middle-class space, becomes sinister in his striking similarity to Harper and his Conservative measures to remove criminalized bodies from the neighbourhood. Inhabiting both of these roles, the Termite Collective member is able to mock and criticize the very positions and structures that constrain him and speak for him daily. Through this role, the play begins to take on the character of the carnival, where, as described by Bakhtin, a "temporary suspension, both ideal and real, of hierarchical rank created…a special type of communication impossible in everyday life" (*Rabelais and his World*, 10). The Termite Collective's performance momentarily inverts the power relations of everyday life.

As a man sentenced to life on parole dons a cardigan and assumes the power both of a Prime Minister and a television icon, he participates in the logic of carnival, what Bakhtin calls the "peculiar logic of the 'inside out'" (11). Collapsing social status, inverting rank, costuming across power lines, "Carnival is the place for working out, in a concretely sensuous, half-real and half-play-acted form, a *new mode of interrelationship between individuals*, counterposed to the all-powerful socio-hierarchical relationships of noncarnival life" (*Problems of Dostoevsky's Poetics*, 123). In this spirit, the actor's positioning as prisoner,

public educator, actor, Prime Minister, and television icon allows him to address the public from all of these positions, and thereby create various meanings to the question that he repeatedly asks of the audience: Don't you feel safer now?

Through his 'half-real and half-play-acted' character, the Collective member works out a new mode of imagining the public. The question of safety is a phantasm for the prisoner, a debate for the educator, a joke for the actor, and a racialized entitlement for Harper and Rogers. The answer to the question "Do you feel safer now?" depends upon who is asking the question, and to whom it is being asked. In the physical space of the production, the actor grants the audience an entitlement to the space that the regular Canadian public is awarded daily. Inhabiting a central position of power by the grace of theatrics and role play, the public educator is able to sincerely ask the members of the audience, largely comprised of non-incarcerated community members, whether they feel safer now that his, a prisoner's, freedom has been further restricted.

Though the actor carries himself in a manner of heavy hyperbole, the arguments that he makes are very nearly direct quotations of Stephen Harper himself. Indicating his awareness of and fluency in the policies that constrain him, the actor asks the audience members to examine their own positions and the forces that are at work in the creation of their neighbourhoods. If the offenders of Stephen Harper's address are violent and irredeemable, then one's safety depends upon locking them up for as long as possible. The question in the performance remains open, echoing Bakhtin's emphasis "that the fantastic [of the menippea] here serves not for the positive *embodiment* of truth, but as a mode for searching

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after truth, provoking it, and more important, *testing* it" (*Problems of Dostoevsky's Poetics*, 114). The Termite Collective wishes to test the audience, situating them as subjects of the Canadian public to ask themselves whose safety is important and why. Through "Mr. Harper's Neighbourhood," *Parole Sans Parole* lays bare the Conservative construction of the dangerous, irredeemable offender who threatens white, settler neighbourhoods, and offers in its place a collective project of cultural remembering via satire. Troubling the taken-for-granted definitions of who constitutes the public and what constitutes safety, the performance strategy in *Parole Sans Parole* compels audience members to examine their own positions of safety (or lack thereof) in relation to fellow audience members, and in relation to members of the *Parole Sans Parole* cast.

Laughter in the carnival

As parody, "Mr. Harper's Neighbourhood" sets the tone for all of *Parole Sans Parole*. Moving through the process of parole, from a meeting with internal parole officers to a Parole Board hearing through life in the half-way house, *Parole Sans Parole* liberally employs satire and pop culture references to comment upon the absurdity of neoliberal discourses of choice, rehabilitation, and accountability. The extended sequences that follow another *Twilight Zone* interlude are grouped under the heading "Three Screws," and follow three people through their interactions first with parole officers in prison, and then with the members of the National Parole Board. "Organized on the basis of laughter," the play highlights and satirizes the laziness of the officers, the arbitrariness of their

decisions, and the powerlessness of the prisoners to affect those decisions through good behaviour (*Rabelais and His World,* 8).

"Three Screws" features a behind-the-scenes depiction of parole officers, or 'screws,' discussing the cases that they are to review that day. Prior to receiving a hearing with the Parole Board, people in prison regularly report to parole officers (formerly known as case review officers), who issue recommendations to the Board. This scene speaks to the neoliberal discourses of parole eligibility that preceded the Harper administration and that continue to thrive. It opens with the officers chatting breezily about their personal lives, finally settling down to examine the files on their desk just before lunch. After discussing their cases among themselves in disparaging tones, the officers call in their 'clients.' Screw #2 sits with Prisoner #2 and says, "I'm recommending you for a closed half-way house." When the prisoner questions this recommendation, arguing that they had mutually agreed upon an open half-way house the week before, the officer responds, "You haven't done anything to make me think you could handle an open half-way house. You need maximum structure." In disbelief, the prisoner exclaims, "But I've done all the programs you asked for! At least twice!" A cash register sounds. The prisoner continues, "I haven't been hit with any infractions since I've been inside!" To this, the officer counters, "Hey! You're expected to follow the rules! A clean record doesn't count for anything" (*Parole Sans Parole*). After another round of verbal sparring, the prisoner leaves the room angrily.

Referencing the slapstick comedy of "The Three Stooges," this scene portrays parole officers as fools, who arbitrarily choose their points of view and scramble for justifications after the fact. The prisoner in the scene represents himself as a model prisoner who has taken every program twice and has not been charged with anything while in prison. Here, the Termite Collective communicates to the audience that there are categories of a responsible offender into which prisoners must place themselves, referring back to both neoliberal discourses of parole in a risk society, and the more conservative turn in the *Roadmap*. 'A clean record doesn't count for anything:' as in the discourse of earned rights and privileges, simply having a clean record does not indicate adequate improvement and accountability. Though this account may seem exaggerated, we are assured that these stories are 'real.' The realm of the fantastic is a narrative frame, but the stories are not science fiction.

Though these scenes are absurd, their comedy is tempered by the realization that they are drawn from the personal experiences of the cast. The laughter that they invite is ambivalent. The humour in "Three Screws" contains a critique of parole officers' values and of their constructions of offenders. As in "Mr. Harper's Neighbourhood," the incarcerated members of the Termite Collective are able to talk back to those officials who define them, and to tell their own stories, through the defamiliarizing techniques of slapstick and clownishness. In the unique space of this workshop, they are in control of all elements of the conversation, allowing them to expose the real-life script of prisoner/parole officer interactions and to subject the dialogue of the parole officer to scrutiny in a

way that would be impossible in the 'real world.' Though carnival laughter is ambivalent, it is extremely powerful.

Writing of the power of laughter in the postcolony, Achille Mbembe speaks of "the way individuals, by their laughter, kidnap power and force it, as if by accident, to examine its own vulgarity" (109). Though subjectivities are complex and multiple, and strategies of domination are so diffuse that one can neither completely 'resist' them nor be 'dominated' by them, "it is always possible to take refuge in *laughter*. Laughter mobilizes the whole body and all its parts. One does not simply howl with laughter. Every organ is seized with trembling" (203). The foolish behaviour of the corrections officials, and their association with "The Three Stooges," encourages the audience to ridicule them as they recommend programs twice and pay more attention to their lunch menu than to their jobs. Through the carnival rituals of role reversal and laughter, the Termite Collective produces a potent critique of the dominant neoliberal discourse that governs the parole process.

In a later scene that recalls the carnival as well, a paroled subject walks an invisible tightrope laden with balloons that represent her parole conditions. "The Tightrope of Conditions" portrays the paroled subject as a clown, clumsily picking her way across a tightrope as frenzied circus music fills the air. Unable to maintain her balance under the weight of her conditions, the tightrope walker stumbles, falls to the ground, and is carried off by vultures. The next scene, "Full Parole," features a man running joyously across the stage in slow motion, as the song "Born Free" plays. Suddenly, he hits an invisible wall, and the screen

flashes, "Security Perimeter: City of Montreal." Though this character has been

released on parole, his freedom does not extend past city limits, as he is prohibited

from leaving Montréal without his parole officer's permission. In both of these

scenes, the clownishness and comedy of the acts mix with the seriousness of the

content to entertain, inform, and provoke the audience. As a tactic, the space of

satire and parody produces characterizations of prisoners, publics, and prison

officials that may be fleeting, but are transformative nonetheless. Are prison

officials fools, are paroled subjects clowns and mimes? If we do not want

Canada's parole process to be this comedic, what needs to change? Again, these

questions, produced by the play's cultural underpinnings, reformulate the position

of the public.

   As witness to these proceedings, the audience is asked to judge the

fairness of these conditions, while at the same time, the audience judges the play's

creative choices. The members of the audience are not required to voice their

opinions, but throughout the play are given the space to ask questions and to

negotiate their own personal positions through group discussion. *Parole Sans*

Parole differs from other types of political theatre in that it is performed at

conferences, in time slots ordinarily reserved for workshops on community

activism. As such, the Termite Collective invites the audience to appreciate the

play as a piece of art, but also to view it as a workshop presentation that solicits

feedback and audience reflection. Because the play is performed in a room set up

for workshops, there is no stage. There is, therefore, very little distance between

the actors and the audience, a technique that encourages familiarity and ease of

discussion. At the Study in Action performance, the audience members engaged in a long discussion with the workshop leaders, approaching the question of how things can change from a position of shared concerns. As members of the audience, in disbelief, repeatedly asked the cast whether the situations they presented had really happened, a genuine spirit of concern and care began to emerge in the room. In this way, *Parole Sans Parole* encourages its public to understand its safety as interlinked with the safety of prisoners.

Another major scene in *Parole Sans Parole* draws upon the cultural legacy of comedy in silent film as political critique. In "Half-Way House," residents submit to farcical regulations while the moments in the scene are titled on a screen as in a silent film, with piano accompaniment. Though not generically subversive, the silent films of the early 20th century are well known for their sympathetic portrayal of working class men and women, especially in the works of Charlie Chaplin. Locating *Parole Sans Parole* in a tradition of film whose most popular comedians, Mack Sennett, Charlie Chaplin, and Buster Keaton, frequently "drew upon their own working-class experiences to skewer symbols of authority" connects the play to the political critiques of police, fascism, capitalism, and industrialism that many of the films put forward (Ross, 80). "Half-Way House" opens to a scene in a common room where two paroled subjects are sitting apart from each other, engaged in solitary tasks. A guard looks into the room and waves her hands wildly at the two prisoners. The screen reads, "I'VE ALREADY TOLD YOU!! SOCIALIZE!!!" The prisoners awkwardly push their chairs together and converse. Later that same day, as the two parolees prepare to

leave the house together, the same guard runs towards them with a measuring tape. The guard measures ten feet of distance between them, and the screen displays, "NO TALKING TOGETHER, NO WALKING TOGETHER! AND DON'T FORGET THE NON-ASSOCIATION CLAUSE!"

As confusion and irony abound, the scene transports the audience to the comedies of the early 20th century that juxtaposed jaunty piano music and slapstick comedy routines with difficult political circumstances. In films such as *Modern Times* (1936), where Charlie Chaplin struggles to survive the deprivation conditions of The Great Depression, and *The Gold Rush* (1932), in which his character is so desperate with hunger that his shoe becomes a gourmet dinner, Chaplin undergirds his comedies with "a sharp critique of the power structure that has given rise to this state of affairs" (Orgeron and Orgeron, 85). A fierce critic of U.S. capitalism and European fascism, Chaplin has been lauded as "the greatest anti-authoritarian comic of his age," for both his films and his outspoken views: "I don't want the old rugged individualism…rugged for a few, ragged for many" (Ross, 80; Chaplin, cited in Sbardellati and Shaw, 499). Chaplin was not alone in these sentiments. Buster Keaton's iconic short film *Cops* (1922) features a well-intentioned Keaton on the wrong side of the entire Los Angeles Police Department, as he accidentally fires a bomb during a parade, thwarts the cops at every turn, and locks them all into a cell at the end, only to release them to regain his love interest's affections.

Filmmaker Mack Sennett, creator of the bumbling stock characters the Keystone Kops, said, "In any other medium but comedy" these types of

caricatures of the police "would have been stopped" (cited in Ross, 80). These actors and filmmakers were not always revolutionary, nor were their films consistently anti-authoritarian. However, there is a well-known collection of early 20th century silent comedies that intentionally critiqued the law, the ruling class, and capitalism, and the ways in which these conditions hollowed out the American dream. In referring back to this tradition, "Half-Way House" maps out some of its larger stakes, connecting the parole process to larger issues of classism and moralism that structure industrial capitalist society. Making light of the restrictive rules of parole momentarily disarms the force of those conditions, and creates a space for critical distance. In the *Parole Sans Parole* zone, one can contest definitions, reverse roles, ridicule authority, and conduct an honest search for the truth.

The prisoners...the play…the public that simply will not conform

Responding to the weight of hyper-responsibilization on the individual incarcerated man and woman in the new corrections regime, *Parole Sans Parole* moves the paroled subject's everyday struggle into the theatre of the absurd to dramatize its effects for the audience. In his monologue to which I referred in Chapter 2, Pat similarly dramatizes his struggles with re-offending assessment tools by referencing the most famous line in the 1967 drama *Cool Hand Luke*. At the end of his life, having exhausted all of his escape options, Luke (Paul Newman) looks out of a church window and quotes the line that his prison boss spoke earlier in the film, after beating Luke with an iron rod: "What we've got here is a failure to communicate." Immediately after saying these words, Luke is

shot dead. *Cool Hand Luke*, and this line in particular, figures large in the social imaginary as a symbol of the senseless brutality of prison life, and of the strength of particular characters to resist those brutalities. The second risk assessment tool with which Pat was assessed is called the Violent Risk Appraisal Guide, or VRAG. Through the VRAG, Pat's risk of re-offending increased dramatically. Pat concludes his monologue with the line, "What we've got here is a failure to respect the VRAG" (*Parole Sans Parole*). Here, Pat compares the physical abuse that Luke suffered in *Cool Hand Luke* to the bureaucratic abuse that Pat faces. Though physical punishment still exists in prison, Pat's experiences with the senseless brutality of prison life arrive in the form of routine paperwork and identity documentation.

Performing the role of Luke, and calling forth "the man…the motion picture…that simply will not conform" at the end of the play, perhaps Pat signals a narrative progression in *Parole Sans Parole* from the repressive atmosphere of *The Twilight Zone* and silent film to the outspoken nonconformism of *Cool Hand Luke* (*Cool Hand Luke* trailer). By aligning his struggle with Luke's iconic story, Pat encourages the audience to reflect upon the real-life experiences that inform sensationalist prison dramas. As the host of *Parole Sans Parole* informs her audience, the play's narratives are stranger than fiction; they convey "the inexplicable, the absurd, the non-logics of the workings of the CSC. For those not used to confusion and irrationality, be warned. These stories are not suitable for those who use their minds" (*Parole Sans Parole*). Positioning itself as the arbiter of rationality, the Termite Collective reverses the subject positions granted

incarcerated and paroled subjects in mainstream discourse. Educated and obedient, the prisoners in "Three Screws" satirically demonstrate their capacity to become responsible citizens who refrain from criminal behaviour. As such, they would thrive under so-called rational conditions of responsibility and rehabilitation.

Yet *Parole Sans Parole* does not simply affirm the capacity of the criminalized to recreate themselves as governable citizens. Rather, it questions the capacity of CSC to act responsibly and rationally in its interactions with the people it governs. Finally, its questioning of seemingly straightforward categories through cultural remembering creates a counterpublic, whose relationship to the correctional system and whose entitlement to safety are radically different than those of the dominant public. In developing a mode of public address, its public "finds itself in conflict not only with the dominant social group, but also with the norms that constitute the dominant culture as a public" (Warner, 80). Because of its political project and the political projects with which it aligns itself, the play's public is at odds with the dominant public that I discussed in Chapter 1. Yet the counterpublic that *Parole Sans Parole* creates shares some fundamental characteristics with publics in general. According to Michael Warner, discourse "conjures" both publics and counterpublics into being (75). In conjuring a particular public, discourse addresses itself to strangers in an effort to indefinitely extend its circulation, yet also positively defines its membership such that the public can be "locatable as a social entity, even a social agent" (76). The public that the *Roadmap* addresses meets these criteria. Appearing to extend to all

Canadians, the *Roadmap*'s public is in fact a locatable social entity of multicultural, middle-class, non-criminalized Canadian citizens whose neighbourhoods are worth protecting. As well, this public appears to have an agency of its own – it fears, it experiences violent crime, and it knows its facts from personal experience. While dominant publics are constructed upon "institutionalized forms of power" and counterpublics will often challenge those same institutionalized forms, both publics and counterpublics depend upon the circulation of their discourse among strangers (84; 87).

Publics differ from counterpublics in their claims to universality. A dominant discourse such as that created by the *Roadmap* will often direct its address to 'ordinary people' – "dominant publics are by definition those that can take their discourse pragmatics and their lifeworlds for granted, misrecognizing the indefinite scope of their expansive address as universality or normalcy" (88). The *Roadmap* intends its reach in precisely this way. The universality of its address depends upon the colonial construction of the Canadian citizen and the lawless Native outsider, and the subsequent normalization of those constructions. The *Roadmap* takes its ideological basis for granted in what Ahmed calls a condition of comfort. "To be comfortable," writes Ahmed, "is to be so at ease with one's environment that it is hard to distinguish where one's body ends and the world begins" (Ahmed, 148). The dominant public is free to move about the Canadian landscape. The multicultural, governable settler citizen is entitled to feel comfortable not only in their own body, but within the property that they have acquired, and beyond that, within the legal borders of their country.

The comfort of the dominant public is a privilege extended to those

citizens who are physically unrestrained by prison walls and reservation territory,

and who are discursively unrestrained by classifications of irredeemability,

irrationality, and criminality.[8] In contrast, the counterpublic does not take its

lifeworld for granted, and its discourses highlight the discomfit in the social skin

that its membership feels. In this way, "addressees are socially marked by their

participation in this kind of discourse; ordinary people are presumed to not want

to be mistaken for the kind of person who would participate in this kind of talk or

be present in this kind of scene" (Warner, 86). Membership in a counterpublic,

then, makes visible one's strangeness if it was not already evident.

As Harper in "Mr. Harper's Neighbourhood" compels the members of his

audience to locate themselves in his constructions of public and of safety, the

strangeness of their positioning becomes apparent. According to Warner, the

purpose of a counterpublic is to transform social relations, rather than simply

replicate them as in the dominant public. Yet as a public, it primarily provides "a

sense of belonging that masks or compensates for the real powerlessness of

human agents in a capitalist society" (81). Thinking in terms of de Certeau's

strategies and tactics, we thus have yet another situation in which transformative

politics are staked out upon losing ground. The tactic of the counterpublic is a

creative, transformative project in which 'ordinary people' would never engage,

and which self-consciously operates in an enveloping powerlessness.

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[8] Of course, there are many states of discomfort that upset this fiction, and Ahmed discusses the comfort of heteronormativity to point to the discomfort that a queer person feels in public space, "when one cannot inhabit the social skin, which is shaped by some bodies, and not others" (148). Though I am examining the discomfort experienced by criminalized bodies, dominant publics operate on many levels of exclusion.

The goal of transformative politics would seem to contradict the knowledge that ordinary people will not see themselves in a counterpublic. To my mind, this speaks to the larger question of critical politics in general – though groups such as prison abolition organizations seek to enlarge their membership and convince the general public of their perspectives, they are also weary of 'co-optation,' and of softening their demands to gain wider appeal. Warner reflects upon the ways in which counterpublics may attempt to acquire legitimacy in the eyes of the state in order to secure funding, or to reach a broader public. At times, in order to gain that legitimacy, they might "enter the temporality of politics and adapt themselves to the performatives of rational-critical discourse. For many counterpublics, to do so is to cede the original hope of transforming, not just policy, but the space of public life itself" (89). A counterpublic's exclusion from rational-critical discourse and from friendly dealings with the state is both a limitation and a political choice on its part. Imagining a way out of this marginality/legitimacy relation preoccupies many counterpublics as they extend their scope of address and affirm their socially marked identities.

Parole Sans Parole does not provide an answer to this question. Yet it does imagine an alternative public whose members are in solidarity with each other, while they remain in vastly different positions of freedom from one another. Unlike the Canadian public for whom the Review Panel writes, *Parole Sans Parole*'s public includes the criminalized, the colonized, and the incarcerated. As such, its safety cannot be predicated upon the fear of dangerous offenders and the warehousing of volitional criminals. Rejecting that solution,

provided by the state to the general public, is a brave step. In the place of that

solution, alternative publics have proposed many strategies, often under the names

restorative justice and transformative justice. As of now, it is difficult to

understand how a prison abolitionist counterpublic might gain traction in the

mainstream; "it is difficult to say what such a world would be like" (Warner, 89).

Based upon cultural remembering, the *Parole Sans Parole* counterpublic is

proudly embodied and marked as Other. Because "the past remains open in the

present, such that the story of the 'I am', or 'how did I come to be', is a story that

also opens up the future of the subject," the work of remembering is one

fundamental component of understanding what such a world might be like

(Ahmed, 41n11). The violence inscribed in the *Roadmap*'s policy of forgetting

mirrors the everyday practices of mainstream discourse. As an alternative to

mainstream discourse, *Parole Sans Parole* imagines future addressees through its

relationship to the past. It speaks to the extraordinary within ordinary people,

surfacing the dividing lines between its members and momentarily inverting those

hierarchies in an effort to foster creation and change rather than re-inscribe

violence and domination.

  As a solidarity group that aims to reach a broader public, the work of the

Termite Collective can be situated in broader anti-prison discourses that

consciously address counterpublics while remaining within spaces of control and

surveillance. *Parole Sans Parole* pursues a transformative renegotiation of public

space and public safety, beginning with the room in which it is performed. As

audience members enjoy the humour of the play, and appreciate the popular

references upon which *Parole Sans Parole* improvises, they are also confronted with the difficult lived experiences of parole conditions. The Termite Collective creates a space of critique, but reminds the audience that it remains within public space. It is then the audience's responsibility to reflect upon the defining parameters of dominant public space, and to reject those parameters in order to recognize the right of incarcerated people to live safely, and to express themselves as they would wish. *Parole Sans Parole* recalls past resistances to state oppression in order to move to a rewritten future.

There are many prison justice activists who work within this potential future, formulating alternatives to incarceration that might take into account the needs of everyone in the community, including the 'criminals.' Questions of what constitutes a community, and what constitutes a crime, are difficult to respond to. The answers vary widely depending upon the context in which they are asked. *Parole Sans Parole* is the beginning point at which these questions become meaningful. Without the hard work of prison solidarity groups and reform workers, the only answers to these questions would be found in documents such as the *Roadmap*. My conclusion will briefly explore the work of the Prisoner Correspondence Project, another prison solidarity group that similarly builds links between prisoners, and between prisoners and community activists. As prison abolitionists half-heartedly wait to transform 'the space of public life itself,' they are consciously building strong networks of creativity and resistance across prison walls.

Conclusion. Public safety redux

In this thesis, I have introduced *A Roadmap to Strengthening Public Safety* in order to better understand the Canadian federal punitive moment of 2005/6. As prisons expand, as talk gets tougher, and as incarceration rates rise, it becomes even more imperative to scrutinize seemingly timeless, 'common sense' philosophies of punishment. At the same time, it becomes equally crucial to identify and publicize the hard work of community organizers (both in and outside of prison) who engage in public education work to historicize and dispute mainstream perspectives on prisons and punishment.

Having read the *Roadmap* and presented its key arguments, I found that the *Roadmap* justifies its major recommendations through its assertion of a Changing Offender Profile. At the policy level, the Review Panel recommends amendments to the *Corrections and Conditional Release Act* that would permit prison administrators to use whichever disciplinary measures it considers appropriate to ensure a prisoner follow their correctional plan, and that would withhold a prisoner's rights until such time as they had 'earned' them. The *Roadmap* suggests such overwhelmingly punitive amendments in response to a changed offender population that is more violent than in the past, and that is unmotivated to change its criminal ways.

As I have shown, the construction of a Changing Offender Profile is statistically suspect, and its origins are equally dubious. Furthermore, the *Roadmap*'s conflation of a more violent population with a population unmotivated to change relies upon neoliberal discourses of responsibilization that cover up

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systemic discrimination using a narrative of 'earning one's way.' By repeating

these arguments in its brief section on Indigenous issues, the *Roadmap*

participates in the willful forgetting of Canada's violent colonial past. Canada's

legal system was established within a colonial framework. The injuries of

Canada's colonisation are neither in nor of the past, and the *Roadmap*'s Changing

Offender Profile furthers the criminalization of Native people in Canada. The

Roadmap was commissioned by and submitted to the Ministry of Public Safety.

As we have seen, this formulation of 'public safety' refers to the safety of the law-

abiding, multicultural, middle-class settler public, against which the lawless

Native Other is positioned. It is this particular public who is included in the

Roadmap's 'Safer Communities' and in Stephen Harper's address to Canadians.

In order to ground the *Roadmap*'s politics of forgetting in a concrete

example, I explored its recommendation to abolish statutory release. The

Roadmap's suggestions regarding parole aggravate the already damaging effects

of parole policies and conditions. Parole conditions police the identities of paroled

subjects in a neoliberal citizen-making project that works to 'rehabilitate' those

parolees whose class, gender, and race markers qualify them as redeemable. The

Roadmap's recommendation to abolish statutory release will affect those

offenders who have never qualified for parole. Native people are routinely

overclassified as unfit for parole, and in this way, the abolition of statutory release

would exacerbate the crisis of Native over-incarceration. As an overwhelmingly

punitive recommendation, the *Roadmap* seems not to believe in rehabilitation, but

rather in further punishment for the irredeemable. This is echoed in Conservative politicians' statements to the effect that rehabilitation is, indeed, a 'phantasm.'

What are prison abolitionists to do in the face of these discourses? The Termite Collective's play *Parole Sans Parole* is a direct and creative response to the era of the *Roadmap*, and to the *Roadmap*'s construction of offenders and public safety. Through satire and farce, *Parole Sans Parole* links its work to past struggles against state oppression, establishes an environment of solidarity and care in its workshop space, and insistently questions the entitlement of the dominant 'Canadian public' to its safety. I have argued that the Termite Collective creates meaningful links of solidarity between its members, as well as between the Collective and its public audiences. Establishing meaningful links of solidarity transforms the mainstream definition of public safety to include the safety of the incarcerated within a new conception of public safety. In this transformed space, what would safety mean?

In order to respond to this question, it may be useful to discuss another prison abolition group that accomplishes many of the same goals as the Termite Collective, but whose methods are different. Here, I would like to distill some of the major accomplishments of *Parole Sans Parole* and illustrate the ways in which a resource produced by the Montréal-based Prisoner Correspondence Project (Prisoner CP) operates along similar lines. I bring in the work of the Prisoner CP in order to situate the Termite Collective in a larger struggle that is ongoing. At the same time, the Prisoner CP's resource series is quite different from *Parole Sans Parole*. In this way, a discussion of the Prisoner CP might move

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us toward a fuller understanding of what type of safety prison abolition groups are fighting for. By comparing the work of these two groups, it becomes clear that the definition of safety must remain open. It is a contingent term that shifts in meaning according to a group's needs at a given moment.

Parole Sans Parole works to create genuine dialogue among a counterpublic, in the recognition that such conversations are impossible in mainstream debates on prison and punishment. It speaks within a cultural lineage of political resistance, and positions itself against those political and cultural products that protect multicultural, settler territory at the expense of the Native Other. Even as the Termite Collective recognizes that it operates within dominant space, it educates and entertains its audience in order to facilitate a convivial atmosphere of learning and exchange. *Parole Sans Parole*'s fluency in prison policy demonstrates the capacity of prisoners and community activists to identify the regulations that police their identities, and to forcefully reject them as inadequate. Illustrating the absurdities of the rules that govern their lives, Termite Collective members encourage the audience to question otherwise 'common sense' realities of public safety and criminality. Finally, Termite Collective members build strong links with each other through weekly meetings and through the collaborative process of writing and performing public education workshops.

The Prisoner Correspondence Project functions similarly. As a pen pal project and resource library, the Prisoner CP facilitates meaningful relationships across prison walls among people who identify along the LGBTTQ spectrum, to provide information to people inside prisons that addresses the experience of

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being gay or transgender while in prison, and to re-centre the voices of prisoners in queer organizing initiatives outside of prison. The collective is currently producing a resource series entitled "Fucking Without Fear" that compiles safer sex information provided by people inside prisons for people inside prisons, and that is reviewed and supplemented by outside health professionals. "Fucking Without Fear" aims to supply necessary health information in a supportive environment that avoids the often medicalizing and judgmental tones of sexual health information directed at gay men, and the often condescending, erasing tones of sexual health information directed at gay women, queers, trans people, and prisoners. As such, the Prisoner CP is issuing four separate resources: the first addresses sexual health and safety between gay men housed in men's prisons, the second focuses on HIV risks for that same group of men, the third resource is directed towards transwomen housed in men's prisons, and the fourth addresses anyone incarcerated in women's prisons.

The "Fucking Without Fear" resource series joins *Parole Sans Parole* as another culturally rich response to the *Roadmap*'s discursive constructions. The *Roadmap*'s discussion of health and safety focuses exclusively upon the safety of the prison staff. "[A]nother significant threat to correctional officers," the Review Panel writes, "is the alarming rate of infectious disease among the offender population" (*Roadmap*, 29). After informing *Roadmap* readers that "offenders' rates of HIV are 7 to 10 times higher than the general Canadian population and their rates of Hepatitis C are 30 times higher," the Panel concludes, "this means that when correctional officers are pricked with dirty needles or showered with

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offenders' urine or feces, they literally fear for their lives" (29). The risk of infection for prison staff is certainly of concern. Yet the Panel's reading of this statistic creates an image of correctional officers fearing for their lives in the face of a dangerous mass of violent, infected prisoners. The health and safety needs of the prisoners who have HIV and/or Hepatitis C are nowhere in the *Roadmap*. As such, the *Roadmap* creates the impression that these high rates of infection are not its concern; there are no *Roadmap* recommendations to address the prevalence of illness and disease in prisons.

The *Roadmap*'s silence in this section is revealing. Much like the *Roadmap*'s Changing Offender Profile and it section on Indigenous needs, the health and safety section of the document re-enacts historical oppressions of target populations, as it equates criminality with disease and denies criminals the right to be healthy. In contrast, the Prisoner CP remembers the criminalization of particular bodies, such as the racialized, the mentally and physically ill, the queer and the transgendered, and consciously works to de-link these strong cultural associations. Not only does "Fucking Without Fear" notice and advocate for the right of prisoners to receive adequate health care, but it also recognizes that the historical and ongoing mistreatment of prisoners with HIV and Hepatitis C "is…connected to the ongoing criminalization of same-sex intimacy and sexuality in prison, to mailroom censorship, and to violence and surveillance. Each of these histories and current realities threatens the ability of prisoners to survive" ("Fucking Without Fear," Resource 1). Framing its resource series this way, the Prisoner CP consciously models itself after the anti-prison and AIDS activist

movements of the 1980s and 90s. At that time, the project writes, "HIV prevention and safer sex was a form of self-defense in our communities," and those communities reached across prison walls in acts of solidarity that have all but disappeared in the wake of the corporatization of gay activism (Resource 1).

In publishing and distributing the safer sex advice of prisoners, and in providing thorough sexual safety information that neither minces words nor shames the addressee for participating in any of the practices described, the Prisoner CP members accomplish two goals. First, the inside members are able to exchange experiences and resources with each other in ways that are often impossible due to U.S. restrictions on inmate-to-inmate correspondence. Second, as a public education document, "Fucking Without Fear" features incarcerated queer and trans people who experience desire, reflect seriously upon their material situations, make do with the materials available to them, and view their experiences as linked to broader community struggles. Its discourse creates a readership, a counterpublic, that affirms the legitimacy of consensual sexuality in prison, a concept that runs wide of dominant perspectives of prisoner subjectivity. Just as in *Parole Sans Parole*, "Fucking Without Fear" broadens the criteria for public safety by including the sexual health and safety of prisoners within the defining parameters.

Though they work within the same political environment, the Prisoner CP and the Termite Collective function differently as well. "Fucking Without Fear" directs itself primarily at an incarcerated audience, and thinks of its non-incarcerated audience as important, but secondary. The resource will be

distributed to the Prisoner CP's inside members free of charge, and it will then be made available to the general public. This runs counter to many of the sexual health resources available to prisoners, which address themselves to a non-incarcerated readership, suggesting techniques and supplies that are impossible to secure in prison. As a public education tool, "Fucking Without Fear" is written by and distributed to prisoners, while the non-incarcerated members of Prisoner CP facilitate the process by compiling and distributing the information.

As an informative, entertaining resource for a counterpublic who is not only incarcerated but is also strictly, gay, trans, or queer, the "Fucking Without Fear" resource series creates links of solidarity slowly, through correspondence, and on the basis of a shared interest in safer sexual practice. The series has become a place where prisoners can communicate (almost) directly to each other, without worrying about outsider judgment they may face for their sexual choices. The ability to have closed discussions that are honest and non-judgmental, even as they are being monitored and surveiled, is a form of safety.

Further, the membership of the Prisoner CP is restricted to gay, queer, and trans people. Throughout the resource, contributors communicate the difficulties that they face in maintaining their sexual health in prison. One contributor writes, "We aren't allowed to have any contact with each other including hugs, and hand holding. When we want to have sex here we wait until count time" (Resource 1). At the same time, another contributor argues,

> Prison promotes closet homosexuality, rape, and disease. Public
>
> nudity is compulsory; same-sex inmates sleep together, shower

together, run naked in the halls together, toilet in front of one

another - mutual masturbation is the logical next step; sexual

coercion and rape of vulnerable inmates are viewed as 'just a part

of prison' or 'you are gay, so you should just expect it;' STD's run

wild in prison and then we get out…   (Resource 1)

Within a heteronormative prison space that restricts intimate, consensual contact

between prisoners but condones rape and sexual assault, the ability to participate

in a conversation that is limited to a LGBTTQ membership constitutes a form of

safety.

Looking at another aspect of Prisoner CP's work, the opposite may be true

as well. Feelings of safety sometimes arise from finding other people who will

fight with you – people who are either incarcerated or not incarcerated. Douglas

Foreman, a 53 year-old gay, Indigenous, HIV+ man who is incarcerated in

Québec and actively fights for adequate health care within prisons, wrote a

submission to an August 2010 Prisoner CP panel on the topic of the

criminalization of HIV/AIDS. He directs his closing statements to "those of you

who are too sick to fight, too discouraged to scream out against what must seem

like overwhelming odds" (Foreman). Foreman asks those people to "take a minute

to thank the front line workers who come to the prisons and spend time listening

to you, share your suffering with you and speak out for you when the time comes"

(Foreman). Here, safety means the solidarity of shared struggle, and relying upon

the stronger voices of other people when one's own voice is faltering.

The parameters of safety in "Fucking Without Fear" are the opposite of those proposed by Douglas Foreman. Where one thrives in a closed discussion, the other asks for outside support and advocacy. While the Termite Collective presents *Parole Sans Parole* to a broad audience and encourages that audience's participation, the Prisoner CP only distributes "Fucking Without Fear" to a gay, trans, and queer counterpublic. There is no blueprint available as to how to include the safety of the incarcerated in a meaningful conception of public safety. There are, however, examples to follow. The Termite Collective and the Prisoner CP provide two different models of prison abolition tactics that radically transform the meaning of 'public,' and the meaning of 'safety.'

The question of large-scale viability for these groups remains unanswered. Serious alternatives to incarceration are long-term goals that would follow from the types of shifts in social relations that these groups are working out. The Termite Collective and the Prisoner CP are instances of creative, small-scale projects that advocate for the physical and emotional safety of prisoners, while imagining a world without prisons in the long-term. They are useful in the way that Lawrence Grossberg employs the word when he laments the lack of "useful" diagnoses of "contemporary political, economic, and cultural landscapes" produced by the intellectual left, "where 'useful' implies the possibility of imagining both effective strategies of opposition and affective popular alternatives" (64). Grossberg's criticism is directed at more comprehensive political and intellectual work that might effectively intervene in broader

processes of neoliberal globalization. Where he is speaking of strategies, I am continuing to explore tactics.

As I have argued in this thesis, effective oppositional tactics build upon precise analyses of existing political landscapes, and then offer 'affective popular alternatives' in the form of alternative subject positions that can rearticulate conceptions of criminalization, crime, punishment, and public safety by reshaping "the ground on which we live" (Ahmed, 200). *Parole Sans Parole* and "Fucking Without Fear" present strong critiques of both the carceral system and the mainstream media arenas in which they produce their work. They contend with the longstanding cultural acceptance of prisons, as well as with the dangers of the *Roadmap* and the particular conservative, punitive moment in which they are stuck.

When I first began to write a thesis, I sought a Canadian answer to Ruth Wilson Gilmore's question, "where did the punitive passion come from in the first place?" (176). I was disturbed and intrigued by the concept of a 'punitive public,' a public that wanted to see others punished for their crimes. Since that time, I have learned that though there is no method of discovering what Canada's population 'really thinks,' there are enduring political and cultural narratives that function punitively and with which most Canadians seem comfortable. The *Roadmap* has caused an uproar in the Canadian media, but its fierce protection of 'Canadian communities' remains uncriticized. Based upon the colonial articulation of the Native outsider and the law-abiding Canadian national, the construction of 'public safety' endures and informs conservative prison policy

today. In response to the fictional yet powerful discourse of a Canadian settler

public, prison abolition groups put their faith in smaller counterpublics who might

more successfully negotiate the complexities of crime and punishment on the

basis of a radically inclusive definition of public safety.

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