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Queering the Carceral Cycle: Women's Resistance to the Carceral State

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QUEERING THE CARCERAL CYCLE:
WOMEN'S RESISTANCE TO THE CARCERAL STATE

DISSERTATION

A dissertation submitted in partial fulfillment of the
requirements for the degree of Doctor of Philosophy in the
College of Arts and Sciences
at the University of Kentucky

By

Ashley L. Ruderman-Looff

Lexington, Kentucky

Director: Dr. Carol A. Mason, Professor of Gender and Women's Studies

Lexington, Kentucky

2020

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ABSTRACT OF DISSERTATION

QUEERING THE CARCERAL CYCLE: WOMEN'S RESISTANCE TO THE CARCERAL STATE

Building upon feminist and queer scholarship that recognizes mass incarceration and the prison-industrial complex as elements of an inherently violent carceral state, *Queering the Carceral Cycle* excavates and analyzes twentieth-century incidents in which women resisted the state's criminalization and/or punishment of multiply marginalized women. I argue that the state's response to women's acts of resistance prompted the development of new carceral strategies and technologies that expanded the carceral state's investment in control and punishment. Moreover, by critically embracing a Foucauldian scheme known as the "carceral cycle," I demonstrate how the state traps multiply marginalized women in a seemingly endless recurrence of criminalization, surveillance, and imprisonment. By employing the feminist methodology of intersectionality, I reveal how multiply marginalized women subverted, or queered, this cycle of entrapment by refusing to comply with the institutions that uphold the carceral state, including heteropatriarchy, capitalism, imperialism, and white supremacy. The case studies I examine vary in scope and severity, ranging from the homophobic attack on rehabilitation efforts at the Massachusetts Reformatory for Women, to the FBI surveillance and grand jury abuse used to criminalize a group of dissident lesbian college students, to the development of the first women's high security unit, designed specifically to torture incarcerated leftist revolutionaries. Taking place in different historical and social contexts across the United States, these cases are united by women's attempts to resist, undo, or weaken the state's investment in carceral control, but also by the state's capacity to find new ways to punish those who attempted, and succeeded, in undermining the state's interests.

KEYWORDS: Carceral State, Feminism, Political Prisoners, Queer Resistance, State Surveillance, Women Prisoners

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QUEERING THE CARCERAL CYCLE:
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DEDICATION

For my parents, Teresa and Christopher Ruderman,
who kept me on the “smart” path.

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Earning a PhD was a dream my parents imagined for me from the time I was little. At the age of eight or nine, my father—with the finesse of an accountant—wrote out a semester-by-semester, credit-hour-by-credit-hour plan that would have me complete a BA, MA, and PhD, by age 23. The idea was that I could teach, and/or do “whatever I want” with a PhD.

I offer this anecdote—as the first woman in my family to earn a PhD—as a way of recognizing my parents for believing that a doctoral degree was always within my reach. I’m far from 23, and my father definitely did not account for a dissertation when he wrote this plan, but I am proud to have fulfilled a dream twenty-some years in the making. I am thankful to have Chris and Teresa Ruderman as parents who not only inspired me, but who were willing to make sacrifice after sacrifice in the name of my education. Their love, support, and unwavering confidence sustained me in more ways than they’ll ever know.

I certainly would not have made my way to the University of Kentucky if not for Dr. Jessica Maucione and Dr. Ann Ciasullo. As an undergraduate at Gonzaga University, Ann and Jess made room for me into their feminist genealogy, prepared me as a burgeoning scholar, and launched me into my graduate school. I am grateful for their unwavering support, confidence, and friendship over the past twelve years.

Joining the University of Kentucky’s Gender and Women’s Studies Department put me at ease, for the first time, in the Bluegrass state. Asking Dr. Carol Mason to chair my doctoral committee was, without doubt, the best decision I made in graduate school. For the past six years, Carol dedicated her time and attention to my intellectual growth, for which I am so grateful. A fierce scholar in her own right, Carol’s mentorship was foundational to the success of this project. Most of all, her kindness, flexibility, and patience helped me when life inevitably interrupted my work.

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INTRODUCTION: Women Within the Carceral Cycle

Women and Mass Incarceration

Over the past fifty years, scholars and activists have documented the myriad ways white supremacy and capitalism sustain mass incarceration in the United States. State sponsored projects, such as the 13th Amendment, point to the ways in which prison labor recreated the conditions of slavery in order to reinvigorate U.S. capitalism, a project that expanded social control and further linked incarceration to the economy. Economic shifts toward globalization and deindustrialization, paired with the War on Crime and later, the War on Drugs, prompted the overwhelming arrest and incarceration of poor men and women of color.¹ The promise of economic revitalization vis-à-vis privatized prisons further contributed to what is now recognized as the prison-industrial complex. After nearly four decades of expansion, the population of people incarcerated in U.S. state and federal jails and prisons swelled, growing from approximately 501,826 in 1980 to 2,148,000 in early 2020.²

Carceral studies scholars have turned to many policies, political shifts, and institutional practices to account for the growth of the carceral state. Popular texts such as Michelle Alexander's *The New Jim Crow* suggest that mass incarceration replaced Jim Crow segregation in a post-Civil Rights era, arguing that "like Jim Crow (and slavery), mass incarceration operates as a tightly networked system of laws, policies, customs, and institutions that operate collectively to ensure the subordinate status of a group defined largely by race."³ While Alexander's account offers a compelling analysis of the War on Drugs, scholars have been eager to identify other interventions and turning points that complicate Alexander's work. For example, Ruth Wilson Gilmore offers a very different

account of the 1980s prison boom. Gilmore's examination of the California prison system situates mass incarceration as the result of a political economic crisis, where prisons and mass incarceration were used to resuscitate the California economy.⁴ Faced with surplus land and "surplus" populations, prison expansion created economic opportunities, especially in rural agricultural areas, while also creating new prison populations through the advent of laws that targeted poor communities of color.

Naomi Murakawa and Elizabeth Hinton's scholarship offers yet another perspective by attributing carceral expansion not only to conservative political agendas like the War on Drugs, but also to liberal lawmakers. As their respective works show, liberal attempts to fight for safety, often through wars on poverty and crime, laid critical groundwork for carceral expansion. Murakawa's study demonstrates how liberals, especially those who advocated for "the right to safety" as a "sanction against white-on-black violence," helped construct the "civil rights carceral state" in their attempts to curb racial violence.⁵ By ignoring the racism embedded within the American criminal justice system, liberal law-and-order initiatives caused more harm to black community who were, in fact, subjected to racist policing and surveillance. Hinton's work adds an additional layer of complexity by identifying the way bipartisan laws such as the Law Enforcement Assistance Administration (LEAA) served as a major source of funding that built up police agencies across the country. Misguided and inaccurate statistical data—especially data that linked rising crime rates to "rising crime *reporting*. . . skewed perceptions of violence," especially in urban black neighborhoods where increased policing created the opportunity for increased reporting, and increased arrests.⁶ Together, examinations of liberal law-and-order initiatives, changes to the liberal welfare state, in

addition to new drug legislation, offers a fuller picture of the rise of the carceral state.

In addition to scholarship on that ties the carceral state to political economy and public policy, scholars such as Marie Gottschalk and Dan Berger have responded to mass incarceration by analyzing the ways that various social movements and political dissidents both contributed to, and resisted, the construction of the carceral state. Gottschalk's scholarship demonstrates how several social movements concerned with victims rights were easily co-opted by arguments that advanced punitive carceral politics. By attending to the nuances of penal policies and those who rallied around them, Gottschalk argues that scholars must "look more systematically at groups and movements that are not the usual suspects in penal policy and yet have played pivotal roles in making public policy more punitive."⁷ Her scholarship tracks the ways several social movements, including the women's anti-violence movement, LGBTQ activism rallying around hate crime legislation, and the Million Moms gun control initiative advanced legislation designed to criminalize, and therefore extend, punitive carceral practices.⁸ In contrast to Gottschalk, Berger's scholarship documents the many ways political dissidents—in particular multiply marginalized activists agitating for a number of social justice issues—have been systematically criminalized and incarcerated. The existence of American political prisoners in the United States, despite efforts to downplay or erase their existence, highlights the way the "state uses the imprisonment of political leaders and rank-and-file activists as a bludgeon against movement victories," where "most of those incarcerated participated in radical movements seeking fundamental overhauls of structures of power."⁹

Although the prison-industrial complex has absorbed an overwhelming number of

poor men and women of color, gender is also, in the words of Eric A. Stanley, among the “organizing structures” of the prison-industrial complex.¹⁰ Representing a single-digit fraction of the total prison population, the growth of the female prison population has nevertheless outpaced the male prison population since 1980.¹¹ The Sentencing Project reports that between 1980 and 2017, “the number of incarcerated women increased by more than 750%, rising from a total of 26,378 in 1980 to 225,060 in 2017.”¹² Black and Hispanic women remained far more vulnerable to incarceration than their white counterparts, as documented by rates of incarceration that, compared to white women, are almost twice as high for black women, and 1.3 times as high for Hispanic women.¹³ Writing in 2003, Angela Davis noted that “California [could] claim the largest women’s prison in the world, with its more than thirty-five hundred inhabitants,” a statistic that credited California with having more incarcerated women located in one state “than there were [across] the entire country in the early 1970s.”¹⁴

In 2003, Angela Davis argued that “with a few important exceptions, women have been left out of the public discussions about the expansion of the U.S. prison system.”¹⁵ Over the past fifteen years, several scholars have responded to Davis’s diagnosis by offering analyses that explicitly attend to the ways gender and sexuality, in conjunction with racism and classism, contribute to carceral expansion. If, writing in 1984, feminist historian Estelle Freedman offered a history of the women’s reformatory that explains how white, middle-class women reformers advocated for sex-segregated prisons and reformatories in an effort to protect white and immigrant women from sexual violence, black feminist scholars including Kali N. Gross, Cheryl D. Hicks, Talitha L. LeFlouria, and Sarah Haley offer compelling histories that complicate Freedman’s work.¹⁶ Together,

these scholarly accounts of the nineteenth- and early twentieth-century carceral state reveal the various ways that women of color, immigrants, and the poor were criminalized and subjected to carceral institutions ranging from the chain gang to the reformatory. Black women in the post-bellum United States were not only disproportionately vulnerable to carceral regimes, they were rarely perceived as deserving of the protections that poor white women received in early carceral institutions.

Feminist scholars have also paid close attention to the ways the state promotes violence against women in two ways: first, by confining women and increasing their vulnerability to interpersonal violence behind bars, and second, by criminalizing women who defend themselves against interpersonal violence. Karlene Faith was among the first to examine the long history of disciplining “unruly women,” ranging from the criminalization and annihilation of women accused of witchcraft, to the gendered nature of women’s crime, including crimes of survival like theft, fraud, and prostitution.¹⁷ Writing in the early 1990s, Faith laid the groundwork for a feminist criminology that recognized the way numerous punitive carceral programs harm women, especially poor, racially marginalized and indigenous women, many of whom were mothers. In accounting for the ways that multiple marginalization contributes to women’s (in)ability to protect themselves, scholars such as Beth Richie have argued that the mainstream anti-violence movement fails to think intersectionally, and as a result, ignores the acute needs of multiply marginalized women who are more vulnerable to violence than white women. The result, Richie emphasizes, is that “the further a woman’s sexuality, age, class, criminal background, and race are from hegemonic norms, the more likely it is that they will be harmed—and the more likely that their harm will not be taken seriously by their

community, by anti-violence programs or by the general public.”¹⁸ Not only are women harmed by their perpetrators, they experience harm when increased “policing, prosecution, and prison imprisonment” are situated as viable solutions to violence.¹⁹ Victoria Law describes this approach to solving violence against women as “carceral feminism.”²⁰ Not only is carceral feminism one-dimensional on account of its oversimplification of gender-based violence, it shutters resources for activists who seek non-statist approaches to combating violence. Most recently, Emily Thuma has employed the term “anti-carceral feminism” to describe the organizing and activism—led by black feminists and their allies—that depends upon grassroots and community-based action to respond to gendered violence.²¹ For more than fifty years, the anti-carceral feminist movement has fought back against interpersonal violence (and the mainstream feminist movement) while also advancing a prison abolitionist politics that refuses to accept carceral solutions that *enact* violence under the guise of *combating* violence.

In addition to theorizing and historicizing the myriad ways multiply marginalized women remain vulnerable to carceral regimes, scholars have addressed the disproportionate criminalization of LGBT, queer, and trans individuals. Regina Kunzel’s scholarship on the sexual lives of prisoners demonstrates how the management of same-sex sex shaped modern understandings of sexuality. Kunzel’s expansive analysis traces the many contradictions and anxieties surrounding queer desire in carceral institutions in the nineteenth and twentieth century, and interrogates assumptions ranging from the alleged perversity (and inherent criminality) of prisoners, to the anxiety about prisons producing homosexuality, to the “lesbianism judged to be widespread in women’s prisons.”²² Kunzel’s work has prompted further scholarship that interrogates the

relationship between the queer and the carceral, including Eric A. Stanley and Nat Smith's edited collection, *Captive Genders*. In recognizing the historic criminalization, surveillance, and policing of lesbian, gay, and bisexual individuals, in addition to the over-criminalization of queer, trans, and gender nonconforming people, *Captive Genders* argues that "prison abolition must be one of the centers of trans and queer liberation struggles."²³ For scholars like Stanley, turning to the carceral state for "protection"—for instance, vis-à-vis increased hate crime legislation and punishments—only perpetuates the violence of the carceral state, all the while ignoring the violence that the carceral state enacts upon queer bodies. In making an argument that mirrors the abolitionist politics of anti-carceral feminists, it becomes abundantly clear that the state's capacity to offer marginalized groups "protection" through the law is but a thinly veiled attempt to expand carceral control that will disproportionately target the most marginalized people. Indeed, as Stephen Dillon argues, "the key functioning of incarceration is to punish people who deviate from racialized, gendered, sexual, and classed social norms."²⁴ In other words, those who are queer on account of their difference—as well as those who engage in queer acts—are always the state's target.

Building upon feminist and queer carceral studies scholars who collectively situate the carceral state as inherently violent, my dissertation excavates twentieth-century incidents in which women resisted the state's attempts to further criminalize and/or punish multiply marginalized women. The case studies I present fit within the larger patterns of racialized, gendered, and sexualized violence that scholars like Berger, Kunzel, Thuma, and Dillon describe. However, I argue that the state's response to queer acts of resistance prompted the development of new carceral strategies and technologies

that would ultimately expand the carceral state's investment in control, surveillance, and punishment. In attending, specifically, to the ways in which homophobia and queerness were used to justify the state's punitive efforts, my scholarship enhances a vibrant scholarly conversation by further demonstrating how a system known for its racism and classism is also mobilized by sexist and homophobic impulses.

My scholarship employs a Foucauldian scheme known as the "carceral cycle" to discuss three case studies, each of which demonstrates how the state traps multiply marginalized women in an seemingly endless cycle of criminalization, surveillance, and imprisonment. The case studies I examine vary in scope and severity, ranging from the homophobic attack on rehabilitation efforts at the Massachusetts Reformatory for Women, to the surveillance and grand jury abuse used to criminalize a group of dissident college students, to the development of the first women's high security unit, designed to torture incarcerated leftist revolutionaries. Despite taking place in the midst of different historical and social contexts across the United States, these cases are united both by their attempts to resist, undo, and/or weaken the state's investment in carceral control, but also by the state's capacity to find new ways to punish those who attempt to undermine the interests of the state.

Writing in *Discipline and Punish*, Foucault defines the carceral cycle as a "regenerating cycle that traps subjects within a network of prison, delinquency, and surveillance."²⁵ The goal of the cycle is to keep subjects entrenched within its three stations, so that they travel repeatedly from one station to the next, unable to transcend the power of the forces that weigh on them. As Foucault explains, "police surveillance provides the prison with offenders, which the prison transforms into delinquents, the

targets of auxiliaries of police supervisions, which regularly send back a certain number of them to prison.”²⁶ In this context, the prison is constantly reinvesting in its future by finding new ways to entrench subjects. When the carceral cycle is working properly, it is only a matter of time before the newly released “delinquent” succumbs to the state’s surveillance, is reconvicted, and returned to prison. My scholarship explores how women interrupt or attempt to interrupt this cycle and, as a consequence, are queered by the state.

Throughout the dissertation, I use the word *queer* to signal an anti-normative analytic that Michael Warner describes as a “critical edge” that emerges when queer is defined “against the normal rather than [against] the heterosexual.”²⁷ In turning attention to the ways queer logics disrupt the normative carceral state, the term *queer resistance* describes acts that attempt to defy, and/or destabilize the state’s grasp on carceral power. While I deliberately consider acts of queer resistance that are punished by the state, I recognize the ways in which the term may sometimes lend to confusion. In certain cases, the women who engage in acts of queer resistance also self-identify as lesbian, gay, or queer on account of their gender or sexuality. While I primarily use queer to describe a type of resistance, many embrace queer as a category of identity that further complicates the hetero/homosexual binary. It is also worth noting that the state, too, is capable of using the word queer in a pejorative fashion. In this instance, the state might render a resister “queer” in an attempt to represent one as inherently deviant and deserving of punishment. In moments like this, one’s status as a state-sanctioned “queer” may still correspond to any number of gendered or sexual identities that may, or may not, have to do with one’s engagement in queer resistance. Throughout this project, lesbians, leaders of the lesbian feminist underground, and “terrorists” at the center of public scandal are

rendered queer in the eyes of the state in order to justify legal and carceral abuse. To further trace these renderings, I employ particular concepts and methodologies from feminist carceral studies.

Terms and Methodologies

In accounting for the changes in carceral terminology that emerged since the publication of *Discipline and Punishment*, I offer the following definitions. Mass incarceration corresponds to the growth of the prison population. Different from the prison-industrial complex, or PIC, mass incarceration is used in reference to the accumulation of people involved in some element of the justice system. The prison-industrial complex is an institution made up of several political and cultural mechanisms that transforms mass incarceration into a profitable, ever-expanding institution. In thinking beyond the prison or jail cell, Eric Stanley situates the PIC as a “set of relations [that makes] visible the connections among capitalism, globalization, and corporations.”²⁸ As such, the PIC functions as a network of policing, surveillance, supervision, and incarceration—upheld by a number of industries whose labor and goods are used to create or maintain carceral spaces—that manages the most vulnerable and multiply marginalized populations. Although the privatized prison is distinct from state and federal prisons based on its for-profit structure, it too falls within the large structure of the PIC. A taxonomy further detailing the historical differences among specific carceral institutions, including the jail, the reformatory, and the prison, appears in chapter one.

Throughout the dissertation, I use two terms in deliberately expansive ways to characterize their multifaceted nature. Similar to the way in which the PIC symbolizes a

set of relations, I use the term *state* to describe a set of government relations that aim to organize and control citizens within the boundaries of the nation. The state can refer to any number of initiatives, offices, or individuals who attempt to organize, control, or otherwise advance the government's agenda. Throughout the dissertation, I consider federal and state employees, prosecutors and judges, local police, and governmental agencies such as the FBI to be state actors.

I also used the term *violence* to describe a number of harm-causing acts that the state sponsors and/or facilitates. Though I do not wish to diminish the material consequences of physical and sexual violence, I also do not wish to create a hierarchy for violence given the innumerable affects and consequences it may have on the lives of those who survive violence. As such, I use violence capaciously to signal the multiple and expansive ways that the state enacts violence against multiply marginalized women. Threats, coercion, harassment, and surveillance are all acts of power and control meant to cause harm. Violence appears in structural settings, such as the prison, which are deliberately constructed to promote pain and suffering, but it may also appear in the courts where prosecutors use legal manipulations as forces to squeeze, pressure, or otherwise harm those who do not wish to collaborate or cooperate. The violence of criminalization, as my scholarship demonstrates, is merely a gateway for more acts of violence to emerge from within various forms of punishment.

Intersectionality remains the central methodological lens through which feminist scholars engage with questions of inequality. My work is guided by an intersectional methodology that is attuned to the complex ways that modes of marginalization interact.

At the insistence of scholars like Jennifer Nash and Vivian May, I use intersectionality to contend with the ways marginalization and privilege simultaneously exacerbate and temper the effects of the carceral cycle.²⁹ As I contend with the lived experiences of multiply marginalized women, in particular queer women, I heed Cathy J. Cohen’s call to look beyond the marginalization that stems from sexuality. “A broadened understanding of queerness,” Cohen argues, “must be based on an intersectional analysis that recognizes how numerous systems of oppression interact to regulate and police the lives of most people.”³⁰ Though the cases I examine are frequently the result of the state’s strategic use of homophobia, my analysis addresses the ways that homophobic attacks are also buttressed by racism, classism, and sexism.

Though at times my scholarship utilizes sociological texts to situate the development of carceral systems, I do not proceed in the way a feminist criminologist might. The archival sources that inform my work are arranged in a way that I hope readers find persuasive, but it is argumentative in the sense that I have arranged sources to reflect my own understanding of a complex and incomplete history. As such, I do not aspire, nor pretend to offer a definitive history. What follows, then, is an historical analysis of the expansion of women’s carceral spaces across the United States that emerged in response to acts of resistance against the state.

Chapters

Chapter one, “Toward a Penology of Punishment: The Lavender Scare and the Ousting of Miriam Van Waters,” examines how conservative politicians successfully fired Dr. Miriam Van Waters from her role as Superintendent of the Massachusetts

Reformatory for Women in early 1949. Throughout the 1930s and 40s, Van Waters revived the reformatory's indenture program by transforming it into a vocational rehabilitation program that benefitted, in particular, women who fell out of favor with the conservative Massachusetts parole board. I argue that the attack on indenture, fueled by mid-century anxieties about homosexuality, resulted in the complete annihilation of the indenture program.

This chapter contextualizes the months leading to Van Waters's dismissal within the early Lavender Scare in order to demonstrate how preoccupations with national security altered the course of prison rehabilitation in the United States. Van Water's enemies were particularly outraged over the way she responded to homosexuality: for Van Waters, homosexuality was a psychopathology that could be cured. Within the context of rehabilitation, conservatives feared that Van Waters was capable of integrating "reformed" homosexuals (possibly produced by the reformatory) into society at a time where homosexuals needed to be contained. The Van Waters case illustrates how a queer woman came under attack for queering the carceral cycle. Postwar conservatism's debates about homosexuality situated Van Waters, and the reformatory, as more vulnerable to attack, resulting in the complete destruction of the reformatory model at Framingham. The significance of this attack marks a distinct shift away from reformatories as progressive spaces for reformation, toward a staunch investment in punitive, penological control, justified by an acute need to contain "homosexual" women.

The attack on the Massachusetts Reformatory for Women thus solidified the belief that homosexual women, and especially incarcerated homosexual women, threatened national security and therefore required enhanced containment. This belief

became embedded in the state's thinking throughout the next decades as the gay and lesbian community increasingly faced policing, surveillance, and state-sanctioned violence. Twenty-five years after Van Waters was ousted, the state launched another campaign against a group of lesbians that depended upon manufactured ideas about the inherent criminality of lesbians. This time, the state perceived a group of young, white, lesbian college students as a threat for their alleged (but unproven) involvement in harboring two lesbian feminist fugitives. Chapter two, "We don't talk about our sisters to the state': FBI Surveillance, Abuse of the Federal Grand Jury, and Queer Resistance" turns to lesbian feminist grand jury resisters in Lexington, Kentucky. This chapter demonstrates how five lesbian feminists and one gay man, known as the Lexington Six, accepted jail sentences in lieu of cooperating with the FBI's hunt for radical leftist fugitives, Susan Saxe and Katherine Power. This chapter documents the precautions communities took to protect against FBI surveillance, and reveals how, in 1975, prosecutors abused the power of the grand jury to investigate, rather than indict, uncooperative individuals. I argue that what the FBI viewed as criminal collusion must be read as an act of queer resistance designed to thwart state sponsored legal violence.

In this chapter, I suggest that the Lexington Six's refusal to cooperate with the grand jury points to ways in which the state uses legal violence and imprisonment to create and maintain cooperative, docile citizens. In assuming that citizens would not risk their freedom if they had "nothing to hide," the state deduced that only the guilty would choose to withhold information. The Lexington Six, however, resisted the FBI's escalating tactics, refusing, ultimately, to "talk about our sisters to the state" for fear of supplying or corroborating information that might enable the state to incriminate other

women. I assert that when the state links cooperation to freedom, choosing to go to jail as an innocent person in the name of noncooperation is an act of queer resistance.

Just as chapter two documents the state's dramatic response to a group of politically active college students, the following chapter explores yet another escalation in carceral technologies. As the state contended with a number of long-sought after fugitives, namely women identified as radical leftist revolutionaries, it deployed another carceral innovation. Chapter three, "From COINTELPRO to Counterterrorism: Carceral Power and the Lexington High Security Unit" turns to the state's attempt to engage in the ideological reconditioning of women political prisoners. In this chapter, I outline how the state transformed COINTELPRO into a counterterrorism program that worked to rebrand leftist revolutionary women as queer agents of domestic terror. I argue that the Bureau of Prisons (BOP) created the Lexington High Security Unit (HSU) as part of a counterterrorism initiative that responded, in particular, to two events: Assata Shakur's 1979 escape, and the mass arrest of leftist revolutionaries in the aftermath of the failed 1981 Brink's Robbery.

In Lexington, the HSU engaged in a number of sensory deprivation and behavioral modification techniques, all of which were deemed appropriate for use on female terrorists including Susan Rosenberg, Alejandrina Torres, and Silvia Baraldini. This chapter demonstrates how queer methods of resistance perpetuated by the left pushed the carceral state towards new technologies like the HSU. The HSU stands out, not only as the first women's HSU that operated in a capacity similarly to the men's maximum-security unit in Marion, Illinois, but also for the constitutional challenges brought against it. I explain how, when a federal judge ruled that the HSU violated the

First Amendment by targeting political prisoners, he did not find the unit to be in violation of Eighth Amendment protections against cruel and unusual punishment. Ultimately, the BOP elected to close the unit, only to announce and open a larger control unit for women in Marianna, Florida.

In tracing the state's increasingly punitive response to women engaged in queer resistance across the twentieth century, the dissertation concludes with an epilogue that locates queer resistance within the walls of twenty-first century jails and prisons. That carceral spaces such as the Lexington HSU were designed with the intent to kill—so much so that one HSU prisoner acknowledged the fact that the state was “trying to kill us. But they'd rather we kill ourselves”—this epilogue acknowledges carceral spaces as increasingly difficult to survive in the twenty-first century.³¹ As such, I consider prison suicide, both as a form of control that prisons benefit from, as well as a form of queer resistance. I argue that suicide, when conceived of as response to one's status as a member of “living dead,” can function as a form of queer resistance. Suicide prevention efforts developed and administered by prison authorities, however, engages in the production of slow death, which allows the prison to continue to exercise control over marginalized populations under the auspices that life, under any circumstances, is worth living. This orientation toward suicide prevention only serves to solidify prisoners as individuals who, as members of the living dead are condemned to exist, but not live. In exploring the boundaries of suicide, I turn to the 2015 death of Sandra Bland (which state officials initially reported as a suicide), and a number of suicides that appear throughout Netflix's *Orange is the New Black*. In these cases, I argue that the stereotype of the strong black woman emerges as a problematic representation that complicates suicide. While

suicide, for some, exists as an act of queer resistance, suicide can also eclipse insidious acts of violence, present within the carceral cycle, that deliberately lead an individual to take their own life. The epilogue thereby introduces the problem of suicide as queer resistance as an area for further research.

Notes

- ¹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Neoliberalism* (New York: The New Press, 2010): 48-54.
- ² “Trends in U.S. Corrections,” (Washington, D.C.: *The Sentencing Project*, 2019): 1, 3; Wendy Sawyer and Peter Wagner, “Mass Incarceration: The Whole Pie 2020,” *Prison Policy Initiative*, March 24, 2020.
- ³ Alexander, *The New Jim Crow*, 13.
- ⁴ Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis and Opposition in Globalizing California* (Berkeley: University of California Press, 2007).
- ⁵ Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014): 3.
- ⁶ Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016): 6.
- ⁷ Marie Gottschalk, *The Prison and the Gallows: The Policies of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006): 9.
- ⁸ *Ibid.*, 11.
- ⁹ Dan Berger, *The Struggle Within: Prisons, Political Prisoners, and Mass Movements in the United States* (Oakland, CA: PM Press, 2014): 1-2.
- ¹⁰ Eric A. Stanley, “Fugitive Flesh: Gender Self-Determination, Queer Abolition, and Trans Resistance,” in *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, ed. Eric A. Stanley and Nat Smith (Oakland: AK Press, 2011): 4.
- ¹¹ “Incarcerated Women and Girls,” (Washington, D.C.: *The Sentencing Project*, 2019): 1.
- ¹² *Ibid.*
- ¹³ *Ibid.*, 2.
- ¹⁴ Angela Davis, *Are Prisons Obsolete?* (New York, NY: Seven Stories Press, 2003), 13.
- ¹⁵ *Ibid.*, 60.
- ¹⁶ See Kali Nicole Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910* (Durham, NC: Duke University Press, 2006); Cheryl D. Hicks, *Talk With You Like A Woman: African American Women, Justice, and Reform in New York, 1890-1935* (Chapel Hill: The University of North Carolina Press, 2010); Talitha L. LeFlouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: The University of North Carolina Press, 2015); and Sarah Haley, *No Mercy Here: Gender, Punishment and the Making of Jim Crow Modernity* (Chapel Hill: The University of North Carolina Press, 2016).
- ¹⁷ Karlene Faith, *Unruly Women: The Politics of Confinement & Resistance* (Vancouver: Press Gang Publishers, 1993): 1.
- ¹⁸ Beth E. Richie, *Arrested Justice: Black Women, Violence, and America’s Prison Nation* (New York: New York University Press, 2012): 15-16.
- ¹⁹ Victoria Law, “Against Carceral Feminism,” *Jacobin*, October 17, 2014.
- ²⁰ *Ibid.*
- ²¹ Emily Thuma, *All Our Trials: Prisons, Policing, and the Feminist Flight to End Violence* (Urbana: University of Illinois Press, 2019).

- ²² Regina Kunzel, *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality* (Chicago: The University of Chicago Press, 2008): 13.
- ²³ Stanley, "Fugitive Flesh," 3.
- ²⁴ Stephen Dillon, *Fugitive Life: The Queer Politics of the Prison State* (Durham, NC: Duke University Press, 2018), 18.
- ²⁵ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1977): 282.
- ²⁶ Ibid.
- ²⁷ Michael Warner, "Introduction," in *Fear of a Queer Planet: Queer Politics and Social Theory*, ed. Michael Warner (Minneapolis: University of Minnesota Press, 1993): xxvi.
- ²⁸ Stanley, "Fugitive Flesh," 6.
- ²⁹ See Jennifer C. Nash, "Re-thinking Intersectionality," *Feminist Review*, 89 (2008): 1-15, and Vivian M. May, *Pursuing Intersectionality: Unsettling Dominant Imaginaries* (New York: Routledge, 2015).
- ³⁰ Cathy J. Cohen, "Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?" *GLQ* 3, no. 4 (1997): 441.
- ³¹ Richard Korn, "The Effects of Confinement in the High Security Unit at Lexington," *Social Justice* 15, no. 1 (1988): 15.

CHAPTER 1. Toward a Penology of Punishment:
The Lavender Scare and the Ousting of Miriam Van Waters

The Spectacle of Suicide

On November 9, 1947, Dr. Miriam Van Waters, Superintendent of the Massachusetts Reformatory for Women at Framingham, recorded the following in her journal: “Antoinette Bendotte (sic) — commits suicide.”¹ While it was unusual for the superintendent to make remarks about specific inmates at the reformatory, this simple statement of fact, buried within Van Waters’s detailed account of the day-to-day happenings at Framingham, suggests that DiBenedetto’s suicide, though atypical, was an otherwise unremarkable and isolated incident.² In fact, the brevity of Van Water’s recording implies that there was no way Van Waters could anticipate that DiBenedetto’s death would become the political catalyst that would prompt her dismissal over one year later, on January 11, 1949. There was no reason to suspect that DiBenedetto’s suicide was anything other than a suicide. When she failed to show up for her work detail, the reformatory’s Associate Superintendent, Peg O’Keefe, discovered that DiBenedetto hanged herself in her bedroom.³ DiBenedetto’s death was reported to the corresponding authorities, and the associate county medical examiner performed an autopsy. Dr. J. Harry McCann officially confirmed that the cause of DiBenedetto’s death was suicide by hanging.⁴

Three weeks after her death, a photo of DiBenedetto appeared in the *Boston Globe*. The narrative that followed was not unlike the sensationalized stories that Lisa Duggan outlines in her study of Alice Mitchell, a young, white, upper-class woman who, in 1892, murdered her lover, Freda Ward, in Memphis, Tennessee. According to Duggan, the narrative that emerged in the late nineteenth century portrayed lesbians, particularly

“mannish” women, as violent criminals who preyed upon unsuspecting, feminine, white, upper-class women.⁵ Over fifty years later, the press similarly depicted Antoinette DiBenedetto as vulnerable to another woman’s homosexual desires. To be sure, when readers encountered DiBenedetto’s photograph, they immediately confronted her conventional femininity: bright eyes and long dark hair framed her wide smile and youthful face. DiBenedetto was fashionable, as indicated by her beret, but her cross choker also established her as a pious Christian woman. DiBenedetto’s photograph projected an image of innocent and youthful femininity, but her image stood in stark contrast to the headline it hovered above. The *Globe* proclaimed, “Foul Play Denied in Death Nov. 9 of Girl Prisoner,” and in so doing, raised more questions about the nature of DiBenedetto’s death than it served to assuage.⁶ If DiBenedetto’s image—a representation of goodness—undermined her status as a prisoner, the photo cast further doubt upon DiBenedetto’s status as a suicidal prisoner. According to the *Globe*, DiBenedetto’s parents charged that their daughter’s body “bore several bruises when they received it for burial,” thus calling the integrity of Dr. Van Waters’s and Dr. McCann’s reports into question.⁷ Although the *Globe* acknowledged that DiBenedetto had been under psychiatric observation at the reformatory, DiBenedetto’s smiling face transformed the reality of her suicide into a suspected murder, perhaps motivated by DiBenedetto’s rejection of another woman’s homosexual advances.

Between November 1947 and June 1948, Antoinette DiBenedetto’s death transformed from a confirmed suicide to an alleged homicide as Massachusetts State Senator Michael LoPresti, Jr. demanded multiple investigations into the Massachusetts Reformatory for Women at Framingham. Miriam Van Waters, preoccupied with

defeating a harmful house bill in the early months of 1948, initially paid little attention to Lo Presti's crusade. Although a reporter warned Van Waters in December 1947, that Lo Presti was teaming up with another major paper, the *Boston American*, and was "going to cause [her] trouble," Van Waters dismissed his concern with the understanding that newspapers, "in order to have something to print[,] they stir up trouble."⁸ Another month would pass before Van Waters acknowledged Lo Presti's persistence. On January 19, 1948, Van Waters learned from the outgoing Commission of Corrections, Paul Doyle, that he had received calls to fully investigate DiBenedetto's death. Van Waters lamented: "this tragedy, inescapable from prison life (there have been two [suicides] in the 16 years) is being used to create suspicion."⁹ Indeed, for conservative politicians like Lo Presti, the death of a constituent at the Massachusetts Reformatory for Women created a timely opportunity to plague Van Waters's rehabilitative penology with controversy.

Throughout the spring and summer of 1948, newspapers like the *Boston American* insisted that DiBenedetto's death was the tragic result of a homosexual crime of passion. On May 7, the *American* reported that DiBenedetto's family believed "she was fatally beaten by another inmate."¹⁰ DiBenedetto's parents insisted that their daughter was not "a depressed person planning suicide."¹¹ Eventually, LoPresti claimed that an inmate—in fact, a known favorite among reformatory staff—murdered DiBenedetto.¹² The implication that DiBenedetto's death was "the result of homosexual jealousies at the reformatory" did not fare well for Van Waters, nor did LoPresti's accusation that Van Waters operated the reformatory "behind an iron curtain."¹³ DiBenedetto's alleged victimization reinforced her image as a "good" and "normal" young woman, while simultaneously admonishing the Van Waters administration for condoning the perverse

environment that led to DiBenedetto's death. The iron curtain that LoPresti accused Van Waters of operating behind did not, in this case, refer to a strict and impenetrable administration, but instead a secretive, women-run administration suspected of harboring homosexuals.

Van Waters vehemently rejected communist rhetoric, claiming that “no iron curtain” could exist at Framingham because she, quite literally, operated “the most open reformatory in the nation.”¹⁴ However, her belief in acquired homosexuality aligned with the (panic inducing) notion of sexual fluidity: Van Waters maintained that one could always experience a change in desires, especially in the case of institutionalized women who loved women. Van Waters not only interjected a longstanding debate on the origins of homosexuality of interest to prison officials and sexologists, she articulated a critique of biological determinism that rejected congenital theories of criminality. In devoting her penology to the rehabilitation of women offenders—whom she exclusively referred to as students—Van Waters strategically avoided diagnosing women as homosexuals. In Van Waters's mind, an offender's acts or intimacies did not necessarily bear on her identity beyond the reformatory, but a formal homosexual diagnosis could preclude a woman from being perceived as worthy of rehabilitation. By the late 1940s, Van Water's stance of homosexuality worked to her disadvantage: in the eyes of the state, Van Waters condoned homosexuality—a dangerous and subversive position in the midst of the Lavender Scare.

In the aftermath of Antoinette DiBenedetto's death, LoPresti's crusade against the reformatory prompted several probes and investigations, including an investigation by the Massachusetts Department of Corrections. Frank A. Dwyer, Deputy Commissioner of

Corrections, investigated the reformatory throughout the spring and summer of 1948 and produced the “evidence” that enabled Elliott McDowell, the Commissioner of Corrections, to dismiss Van Waters the following January. While Van Waters’s dismissal was inherently controversial in and of itself, the sanctions McDowell placed upon the reformatory were far more damaging than Van Waters’s dismissal because they remained in place even after Van Waters overturned her dismissal in March. When Van Waters resumed her superintendency, she was left without a crucial rehabilitative tool written into Massachusetts Law in 1879: indenture.

Upon initially learning of McDowell’s sanctions in June, Van Waters lamented that McDowell was destroying the reformatory by way of reducing it into “a woman’s jail.”¹⁵ McDowell’s sanctions severely limited Van Waters’s use of indenture: a method of vocational rehabilitation that afforded offenders opportunities to live and work outside the reformatory. Indentured women earned wages, gained experience working in a variety of industries, and most importantly, relied upon the community to aid in the rehabilitation of offenders. As one study of the reformatory remarked, “the moment the student enters the institution, the Reformatory thinks in terms of her eventual return to the community.”¹⁶ Time and time again, indenture successfully facilitated this transition by reintegrating women into communal life.

In this chapter, I argue that Van Waters’s implementation of indenture successfully interrupted the Foucauldian carceral cycle, but not without consequence. I demonstrate how Van Waters’s indenture program upended the production of delinquency by providing women with the skills to evade the grip of incarceration in Massachusetts. The consequences of Van Waters’s program, however, appeared in the

form of state-level retaliation that intensified the surveillance of the reformatory and expanded the definition of delinquency. Van Waters's attempt to disrupt carceral control ultimately influenced the state leaders to transform the reformatory into a prison.

In what follows, I illustrate how Van Waters actively pursued opportunities to thwart the carceral state and the mechanisms of marginalization that personally affected her and systematically affected women offenders. In this sense, Van Waters enacted a feminist penology that problematized the social power imbalances that interrupted women's rehabilitation. Van Waters understood that sexism, racism, and homophobia maintained the carceral state; an intersectional stance that expands Foucault's assertion that class (alone) determines whether or not one will be led to "power or to prison."¹⁷ Van Waters's ability to intervene in the production of delinquency specifically benefitted women whom the state was unwilling to parole. For example, Van Waters's success in rehabilitating "moral" offenders, particularly queer women, bolstered the state's opposition to the progressive superintendent. When politicians invoked the rhetoric of the Lavender Scare to further discredit Van Waters, they used homosexuality as a scapegoat to advocate for a punitive penology. The conflation of homosexuality and communism only exacerbated the state's scapegoating. In the midst of the Cold War, restoring the carceral cycle's equilibrium—in other words, advocating for the punishment of incarcerated people—aligned with the nation's obsession with securing the physical and moral future of the nation.

I offer Van Waters's story in four parts. I begin by underscoring the importance of Foucault's theory of the deliberately failed prison upheld by the carceral cycle. Though Foucault argues that carceral institutions moved away from punitive penology in favor of

disciplinary carceral practices, the history of U.S. women's reformatories reverses this chronology because the reformatory's emphasis on rehabilitation necessitated discipline. A penology of punishment emerged in women's reformatories when the benefits of containment outweighed the benefits of rehabilitation. I offer Foucault's genealogy as a way of supplementing a brief history of the Massachusetts Reformatory for Women that distinguished itself from other carceral models implemented in the United States. The historical precedent for the reformatory not only shaped the institution Van Waters inherited, it provided her with the autonomy to act in the interests of the women she served.

As a penologist, Van Waters is perhaps best known for her rejection of biological determinism in favor of individualized rehabilitative treatments. Individualized treatment fulfilled three purposes: it assessed the holistic needs of each woman, outlined a tailored plan for her rehabilitation, and oriented her toward the internalization of the reformatory's disciplinary regime. The second section explains how Van Waters used indenture to break the cycle of delinquency, while also establishing an alternative method of release that deliberately circumvented the state's parole board. Bypassing the parole board was a controversial, but critical step for Van Waters because the board often refused to consider a woman's progress toward rehabilitation when determining whether or not to grant parole.

The third section addresses the relationship between the Lavender Scare, twentieth-century sexology, and the expansion of delinquency to include homosexuality, and its synonymous extension, communism. I turn to debates within sexology that surfaced among politicians concerned about national security, as well as prison

administrators, psychiatrists, and social workers who wished to better understand the nature of homosexuality at mid-century. This section expands on Van Waters's position on same-sex sex in prison, and explains how she strategically deployed the Rorschach test to avoid diagnosing homosexuality at the reformatory.

Finally, I return to the matter of Antoinette DiBenedetto's death, Van Waters's ousting, and the destruction of the Massachusetts Reformatory for Women. DiBenedetto's death prompted the intensive surveillance of the reformatory that ironically, yet purposefully destroyed a mechanism that fostered self-surveillance among reformatory students in favor of punishment. McDowell's crusade to destroy Van Waters, and particularly her use of indenture, can only be understood as an effort to reconstitute the reformatory as a women's prison. The months leading to Van Waters's dismissal signal a shift in women's carceral practices as the logic of the carceral state descended upon the reformatory. Destroying the Massachusetts Reformatory for Women—one of the nation's most progressive institutions under Van Waters's tenure—induced the birth of the punitive women's prison in the United States.

Discipline, Disruption, and Punishment: The Consequences of the Carceral Cycle

American carceral systems have gone by many names, but jails, prisons, penitentiaries, houses of correction, and reformatories are, with few exceptions, historically distinct from one another on account of the populations they housed and in the penology they executed. The fact that the names of these institutions are often used interchangeably—for example there is little distinction between a state penitentiary and a state prison—undeniably lends itself to confusion. The project of transforming the

Massachusetts Reformatory for Women into a prison, however, amounts to more than a change in nomenclature because of the gendered nature of reformatories. Though at least one men's reformatory existed in New York, reformatories for women in the United States emerged in the mid-nineteenth century.¹⁸ Reformatories were considered safer for women in the sense that women were less vulnerable to the sexual assault, abuse, harassment, and harsh living conditions they frequently encountered when imprisoned in men's institutions. Unlike prisons, reformatories also carried the distinction of rehabilitating women offenders, a penological aspiration that stood in contrast to prisons that, in adhering to the Foucauldian carceral cycle, contained, punished, and promoted recidivism.

Miriam Van Waters's penology exemplified successful rehabilitation that interrupted the carceral cycle by preventing recidivism. Women at the Massachusetts Reformatory for Women broke the cycle when they internalized self-discipline so well that they could shed their identity as "delinquents" prior to their release. Indenture specifically helped accomplish this goal by offering women an opportunity to practice self-discipline in their work, both within and beyond the reformatory. Though it is true that indenture, as a form of labor, merely (re)embedded women within capitalism by "impos[ing] on the convict the 'moral' form of wages as the condition of [her] existence," Van Waters's commitment to indenture was distinctly feminist.¹⁹ She affirmed that women, many of whom came from poor or working class backgrounds, deserved to be paid for their work, in and beyond the domestic sphere.

Indenture's relationship to discipline and self-surveillance risks being incorrectly reduced to a mechanism that produced docile women. One can draw this conclusion

based on the number of women engaged in work that embedded them within the domestic sphere. This is not necessarily an inaccurate assessment, considering the 1879 indenture law specifically identified domestic labor as the only form of employment deemed appropriate for women offenders. However, in accounting for gender within the context of indenture, I invoke feminists who have critiqued Foucault for his failure to theorize gender. For example, Sandra Bartky argues that Foucault

is blind to those disciplines that produce a modality of embodiment that is peculiarly feminine. To overlook the forms of subjection that engender the feminine body is to perpetuate the silence and powerlessness of those upon whom these disciplines have been imposed. Hence, even though a liberatory note is sounded in Foucault's critique of power, his analysis as a whole reproduces that sexism which is endemic throughout Western political theory.²⁰

As I demonstrate later in this chapter, the indenture law relied upon the logic of sexism to produce docile women who only engaged in "feminine" labor. The women who took domestic jobs within the context of indenture were taught to remain in the domestic sphere after their release by continuing to seek domestic work.

Different from her predecessors, Van Waters subverted indenture in two ways. First, she extended indenture not just to poor women, but to queer women—often coded as "moral" offenders—who were otherwise unlikely to be paroled. In order to identify women who were good candidates for indenture, Van Waters created an indenture board that empowered her, and her staff, to identify potential candidates. In this way, the indenture board competed with the parole board as a method of release by deliberately

creating a loophole that, in the eyes of the parole board, “thwart[ed] the will of the court, ignore[d] the powers of the state parole board, and serve[d] to *menace* organized society.”²¹ Van Waters undermined the parole board’s narrow understanding of who was suitable for re-entry to society vis-à-vis parole by implementing a system that rewarded *any* woman’s progress toward rehabilitation.

Second, Van Waters expanded the kind of labor women could engage in under indenture by turning to non-domestic industries. It is significant that the expansion of indenture under the Van Waters administration was not legal. In fact, Van Waters was regularly accused of using indenture “illegally” throughout 1948—an accusation that was, unfortunately, accurate and consequently damaging. However, Van Waters’s illegal use of indenture was not without purpose or support: Van Waters expanded the program to include non-domestic labor during World War II. At the end of the war, Van Waters did not relinquish the employment opportunities provided by the war in the post-war years. Instead, she continued to bend the indenture law to accommodate expanding opportunities for women. On several occasions, Van Waters formally advocated for the expansion of indenture, even when accusations of her illegal indenture practices were invoked to justify the abolition of indenture altogether.

Van Waters’s use of indenture expands the political possibilities of the docile body. When docile women internalize gendered discipline within the patriarchal order, they conform to and maintain the status quo of patriarchal power. Van Waters’s production of docile bodies, however, was rooted in resistance: indentured women internalized discipline and self-surveillance practices with the purpose of evading the carceral cycle. Furthermore, the women who participated in indenture were always

deemed less suitable for release based on their offenses, if not also their ethnic, racial, or national identity, their class, or their sexuality. Thus, while docility certainly operates as a method of control, docility in this case acted as a powerful form of resistance. In other words, when women offenders transitioned out of delinquency and into docility, they broke out of the carceral cycle. While it remains true that women offenders were always embedded within a disciplinary regime, a disciplined life was strategic. Discipline afforded far more freedom to women who might otherwise remain stuck within a well-calibrated web of carceral control, rooted in perpetual delinquency.

Van Waters's reformatory—an institution initially rooted in discipline—reverses the chronology of carceral institutions that Foucault offers in *Discipline and Punish*. In this text, Foucault examines the genealogy of the prison, and distinguishes between three distinct phases in the history of carceral control: torture and corporal punishment, punitive penology, and last, disciplinary regimes of carceral control. Because the Massachusetts Reformatory for Women was initially structured as a disciplinary space that succumbed to punitive penology in the aftermath of the Van Waters case, it is important to understand the history of women's reformatories as they emerged as disciplinary spaces.

Eugenia C. Lekkerkerker's 1931 study of American prisons and reformatories offers a detailed taxonomy of the numerous penal systems implemented in the United States dating back to the seventeenth century. While jails existed at the height of corporal punishment, imprisonment was not initially used as a form of punishment; rather, the colonies operated county or municipal jails as holding spaces for individuals awaiting trial.²² Convicted offenders who were not sentenced to the scaffold for public torture

and/or humiliation were sometimes sent to workhouses or houses of correction. Offenders who received fines, but could not afford to pay their fines, were also sent to the workhouse. As Lekkerkerker notes, William Penn, following the example of the English and the Dutch, mandated in 1682 that “all prisons [jails] shall be workhouses for felons, thieves, vagrants, and loose, abusive and idle persons, whereof one shall be in every county.”²³ These penal workhouses—synonymous with ‘houses of correction’—date the centuries-long relationship between penal institutions and labor to the seventeenth century. Indeed, penologists would continue to use penal labor to combat the idleness that accompanied a new model—the prison—that was established throughout the eighteenth century.

It was not until after the Revolutionary War that imprisonment grew in popularity. At this point, the severity of one’s crime determined where an offender might serve time if sentenced to imprisonment. Offenders convicted of minor crimes, many of whom were women, were considered “misdemeanants,” and served jail sentences. Felons, predominantly men, were sentenced to imprisonment in state prisons. Different from jails, the prison, as Regina Kunzel argues, “was envisioned as an enlightened, humane, and progressive alternative to capital and corporal punishments and shaming practices common in colonial America.”²⁴ The first state prisons in the United States, the Auburn Penitentiary in New York and Eastern State Penitentiary in Philadelphia, opened in 1819 and 1829, respectively. They offered new architectural and penological models that influenced correctional systems throughout the world during the nineteenth century.²⁵ Auburn and Eastern State implemented a disciplinary model that emphasized isolation in an attempt, according to Kunzel, to promote “opportunities for rehabilitation through

remorseful self-reflection.”²⁶ Inmates at Auburn lived in silence, worked and ate among other inmates, and slept in individual cells, while inmates at Eastern State lived in silence and solitary confinement, for twenty-four hours each day.²⁷ Foucault observes that the objective of these two systems was “coercive individualization, by the termination of any relation that is not supervised by authority or arranged to according to hierarchy.”²⁸ To put it differently, the penitentiary’s disciplinary regime created a climate where prisoners learned and internalized discipline in order to transform into law-abiding citizens. Self-discipline, as a method of social control, guaranteed that prisoners would submit to disciplinary power.

Carceral practices in the American South were fundamentally different from those in the North, especially in the post-bellum years. Michelle Alexander and Ava DuVernay have outlined the history of carceral racism by turning to its origins: the 13th Amendment. Ratified on December 6, 1865, the 13th Amendment stated that “neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”²⁹ As such, the 13th Amendment ushered the convict lease system, which regenerated slave labor by criminalizing emancipated African Americans living in the South. Under the protection of the constitution, convicted criminals could be legally forced to work, thus prompting the creation of racist legislation that would generate black criminals. Alexander explains that “nine southern states adopted vagrancy laws—which essentially made it a criminal offense not to work and were applied selectively to blacks—and eight of those states enacted convict laws allowing for the hiring-out of county prisoners to plantation owners and private companies.”³⁰ While the convict lease

system had the obvious goal of regenerating plantation labor, black men were sentenced to work on chain gangs, which performed manual labor, both productive and unproductive.³¹ Lekkerkerker's study suggests that black men were exclusively assigned to work on chain gangs, but Sarah Haley's scholarship reverses Lekkerkerker by emphasizing that black women were also sent to the chain gang. Forgetting that black women were treated as poorly, if not worse than men, reflects "their exclusion not just from the category 'woman' but also the category 'female.'"³² The joint forces of racism and sexism positioned black women as laborers who, if not working on chain gangs, worked in the fields of state prison farms that resembled plantations. The concentration of women's reformatories in northern states suggests, on account of geography, that it was unlikely for Southern black women to be sentenced to a women's reformatory. The racist dehumanization of Southern black women portrayed them as unredeemable, and thus unworthy of the social uplift that reformatories afforded.

Alexander's scholarship argues that the convict lease system naturalized carceral racism in the United States. As the segregated Jim Crow South took hold, vagrancy laws enabled the targeted policing of African Americans, which inevitably led to arrest, conviction, and incarceration.³³ The convict lease system exemplifies Foucault's carceral circuit: states expanded delinquency through the law, racism bolstered surveillance of Southern African Americans, and prison labor played a pivotal role in the South's economic recovery. While racism undeniably organized delinquency throughout the nineteenth, twentieth, and twenty-first century, the history of American prisons must also be understood alongside the sexism that fueled the policing of women throughout the late

nineteenth and early twentieth centuries. The incarceration of women, many of whom were white ethnic minorities, prompted a different carceral system: the reformatory.

Throughout the early nineteenth century, women imprisoned in municipal jails were subjected to horrific conditions. Early jails were not built to accommodate women: the alleged moral superiority of women and limited access to public space rendered female crime an anomaly. Women sent to jail in the eighteenth and nineteenth centuries were jailed alongside men, which endangered women by subjecting them to sexual violence perpetrated by male inmates, in addition to other forms of mistreatment. It was not until 1828 that New York passed a law requiring county jails “to separate male and female inmates.” While, in theory, the segregation of inmates on account of gender would improve living conditions for women, it often relegated women to even more abject conditions. As Estelle Freedman points out, up to fifteen women could be confined to a cell with one bed in the mid-nineteenth century. Not only were women collectively confined in small, poorly ventilated spaces, they remained vulnerable to sexual violence because male guards maintained exclusive access to their cells. The inhumane treatment of women, Freedman explains, was acceptable given the stigma associated with women’s crime.³⁴

The treatment of jailed women corresponded to the stigma associated with the “crimes” women were found guilty of committing. Although Freedman’s research reveals that the influx of “crimes against chastity or decency, applied almost exclusively to women,” the gendered nature of crime implicates the classed and racialized elements of policing in the United States. Women who were poor, immigrants, and/or women of color were disproportionately more vulnerable than white, middle-class women. Like the

vagrancy crimes used to criminalize African Americans in the South, crimes that emphasized a “stricter code of female morality” resulted in a dramatic increase in women’s crime rates. But, just as vagrancy crimes purposefully neglected to criminalize white Southerners, men were rarely criminalized when they participated in moral offences, which solidified a sexist double standard. The women convicted of adultery, prostitution, as well as other crimes of survival linked to racial or ethnic marginalization, were disregarded as “fallen women.” These women were believed, according to the logic of Victorian-era purity, to be irredeemable and therefore deserving of the sexual assault and maltreatment they experienced in jail. When one takes into account the social protections afforded to white, middle-class women in the name of white supremacy, the gendered nature of “women’s crime” also signals the ways in which race, ethnicity, and economic inequalities shape the idea of the women offender in the United States.³⁵

In 1827, British penologist Elizabeth Fry insisted that women could be reformed, and that women must take charge in accomplishing this task. Fry’s influence extended across the Atlantic and influenced many American women, particularly middle and upper-middle-class white Protestant women, and especially those identifying as Quaker and Unitarian. Although Quaker women began visiting jailed women in 1823, the treatment of women prisoners did not receive substantial attention until the 1840s, when the female members of the Prison Association of New York (PANY) “questioned not only prison conditions, but also the underlying attitudes toward female criminals that perpetuated them.” This group, known as “The Female Department,” began their work as reformers by visiting imprisoned women, and attempted to reduce recidivism rates by opening the Isaac Hopper Home, a halfway house that provided “shelter, prayer, and

training [for] drunken, vagrant, and immoral women” recently released from jail. Over time, women reformers who adopted Fry’s belief in reforming fallen women grew increasingly frustrated with their male colleagues, who refused to legitimize their reform efforts and acknowledge the vulnerability of jailed women. Freedman explains that this tension led to several women leaving the Female Department of PANY in order to form the Women’s Prison Association and Home (WPA) in 1854. As white women throughout the mid-nineteenth century affirmed their place in prison rehabilitation by advocating for their unique ability, as women, to reform fallen women, many advanced to professionalized leadership roles in women’s reformatories that opened throughout the 1870s.³⁶

Lekkerkerker’s overview of American reformatories argues that while men’s and women’s reformatories were guided by similar penological strategies, “the motives which led to the establishment of the women’s reformatories were very different from those which underlaid the development of the Elmira-system,” otherwise known as the first men’s reformatory in the United States.³⁷ The Elmira reformatory opened in upstate New York in 1876, a year before the Massachusetts Reformatory for Women opened in 1877, but nine years after the first women’s reformatory opened in Indiana in 1867.³⁸ The motivation to open a reformatory for men was

to create a prison which would be of more reformative character than the then existing Auburn and Pennsylvania systems, particularly in view of the class of young adult offenders too old to be sent to children’s institutions, but still young enough to offer hope of their being reclaimed.³⁹

When silence and solitary confinement failed to rehabilitate incarcerated men, penologists explored alternatives that would overwhelmingly benefit young white men. Throughout the reformatory's first sixteen years, 76.6% of inmates were white American citizens, 20.2% were white immigrants, and roughly 3.2% of inmates were "colored" (3.0%), Chinese (0.07%) or Indian (0.03%).⁴⁰ Elmira's first Superintendent, Zebulon R. Brockway, employed a rehabilitative strategy derived from models used by penologists in New Zealand, Ireland, and England.⁴¹

The differences between the origins of men's and women's reformatories reveals much about the gendered double standards embedded within nineteenth-century penology. For example, during the first National Prison Congress in 1870, the secretary of the Massachusetts Commission of Prisons received considerable backlash in light of a state-mandated advisory board designed to explore the possibility of a separate women's prison in Massachusetts. Lekkerkerker's study reports that prison officials at the National Prison Congress opposed separate women's institutions for two reasons. On the one hand, women prisoners were forced to perform the prison's domestic labor, so separate women's prisons would increase operations costs by requiring men's prisons to pay for domestic labor. On the other hand, private contractors who hired incarcerated women might lose out on the profits they garnered from women's labor.⁴² The National Prison Congress's interest in continuing to control and benefit from women's labor in co-ed prisons meant that the economic opportunities tied to (free) women's labor outweighed the importance of their safety. When juxtaposed against the fact the National Prison Congress enthusiastically received Brockway's paper describing the rehabilitative methods that he would implement at Elmira, it is clear that women offenders were still

not imagined as redeemable subjects worthy of the protection a separate institution would afford.

According to Freedman, the need for separate women's institutions was ultimately rooted—at least, from the perspective of white, middle-class women reformers—in the need to separate women from men, provide “differential, feminine care,” to incarcerated women, and allow women to assume the roles of superintendent and staff at women's institutions.⁴³ Freedman explains that the gendered rationale for separate women's institutions deliberately emphasized gendered difference as opposed to women's equality, but motivations to create women's reformatories also implicated nineteenth-century class and race relations. The women who facilitated prison reform were white and middle-class, who felt called upon to “uplift” fallen women.⁴⁴ The benevolence of white middle-class reformers must not overshadow the ways in which they reinscribed race and class hierarchies in women's reformatories. Poor women, immigrants, and women of color were always more likely to be criminalized, which, in contrast to white, middle-class, women who staffed the reformatories, distinguished between the “goodness” of whiteness and wealth, and the “badness” of poor women, women of color, or immigrants.

There are a number of reasons why women in the late nineteenth and early twentieth century may not have served time in a reformatory, including, but certainly not limited to, racism and classism, geography, and state correctional infrastructure. Although women's reformatories opened as early as 1873, they emerged alongside institutions that Nicole Hahn Rafter refers to as “custodial prisons” for women. All but one of these six prisons emerged between 1870 and 1935. Custodial prisons for women

often pre-dated reformatories, and remained in operation as the only carceral institution for women in states that did not open reformatories. Often, custodial units originated as women's units that operated as extensions of men's prisons. For example, the oldest custodial women's prison, Mount Pleasant Female Prison at Ossining, New York opened in 1835—52 years before the first New York women's reformatory opened. Mount Pleasant did not function independently; it was “administratively dependent on the Sing Sing prison for men,” but it did maintain “its own buildings and staff.” Often, custodial prisons operated independently only after they inherited carceral space from men's institutions: the State Prison for Women in New York (1893), the Joliet Women's Prison in Illinois (1919), and the Raleigh State Prison in North Carolina (1933) operated within former men's institutions. In Alabama, the Wetumpka Penitentiary became an all-women's institution by default when the men moved into the brand new Kilby prison in 1923. Women's custodial prisons were not intentionally built for women, nor were they equipped to serve them. As Rafter observes, women in custodial prisons “received treatment similar to that of men in corresponding prisons for male felons,” but they did served time in “outmoded” spaces that lacked a “fulltime physician, chaplain, or teacher,” as well as programs and job opportunities.⁴⁵

Although Rafter's scholarship demonstrates that women's custodial prisons operated before and alongside women's reformatories, I distinguish custodial prisons from the punitive women's prisons that, as I argue, emerged out of the reformatories in the twentieth century. This is because punitive women's prisons *replaced* reformatories in the twentieth century, whereas custodial women's prisons closed upon transferring their inmates to newly opened women's reformatories. The organization of carceral

institutions for women was generally determined by the state legislature. For example, Rafter explains that states like New York “needed some kind of accommodation for its female felons, who, as yet barred from reformatories, were clogging county penitentiaries.” In some cases, the relationship between a woman’s age, race, ethnicity, class, and her rate of recidivism and/or severity of her offense determined whether or not she was deemed suitable for a reformatory. For example, New York attempted to operate a state prison farm for repeat female offenders over the age of 30, whom the state considered “incapable of reform.” Although the farm only operated for three years, it documents New York reformer’s commitment to eugenics, considering that the farm held immigrant women predominately convicted of gendered offenses like drunkenness and prostitution. Such targeted incarceration limited a woman’s reproductive capacity. Women’s custodial prisons in states like New York demonstrate that lawmakers decided who was, and who was not, fit for rehabilitation; but the presence of a custodial unit or autonomous custodial prison does not necessarily indicate that this distinction was applied everywhere. In some states, women’s custodial prisons were the only carceral spaces reserved for women in the nineteenth and early twentieth century.⁴⁶

In the case of the first women’s reformatories, the way in which the state addressed juvenile delinquents frequently influenced the formation of early women’s reformatories. For example, while Indiana opened the first women’s reformatory in 1873, attempts to generate support for a separate women’s institution were stifled in Massachusetts. One key difference between these states rests in their treatment of juvenile delinquents. In 1856, Massachusetts opened the Lancaster Industrial School for Girls, which functioned as an institutional repository for delinquent girls.⁴⁷ Indiana

lacked institutions for girls and women alike, and consequently opened the Reformatory Institution for Women and Girls in order to incarcerate adult women and girls in one institution.⁴⁸ It took over four years for reformers in Massachusetts to successfully lobby for a women's reformatory: only after receiving over 7,000 signatures in favor of a reformatory did the Massachusetts state legislature pass the bill that provided the funds to build the reformatory in June of 1874.⁴⁹ The Reformatory Prison for Women opened in 1877 in Sherborn County, later renamed Framingham, one year after Elmira.⁵⁰

As reformatories emerged throughout the late nineteenth century, gender, race, class, and age determined who the state committed to the reformatory. Louis Robinson's 1923 study of American penology defines reformatories as "a prison in which a state tries to reform *selected* adults."⁵¹ Indeed, the men's reformatory at Elmira sought to reform "those convicted for the first time of a felony and not under sixteen or over thirty years old" in order to maximize the success of individual reform.⁵² Unlike Elmira, the 1877 law that established the Reformatory Prison for Women focused on misdemeanors by mandating that *all* women "convicted of being vagrants, common drunkards, lewd and wanton and lascivious behavior, common nightwalkers, and other idle and disorderly females" be sentenced to the reformatory.⁵³ The propensity to sentence women convicted of misdemeanors to the reformatory, compared to the first felony standard at Elmira, establishes that nineteenth century women were more likely to be institutionalized for petty crimes compared to their male counterparts. Sexism accounts for many double standards when it comes to nineteenth century crime. For example, in 1879, Massachusetts passed a law that "authorized the courts to sentence women convicted for drunkenness a second time to the reformatory prison for an indefinite period not

exceeding two years.”⁵⁴ This law subjected women to harsher sentences for misdemeanors like drunkenness, while first time male offenders were merely fined for drunkenness, and only imprisoned in the event of non-payment. A law passed the following year, in 1880, compounded gender discrimination with classism by stipulating that first time offenders, regardless of gender, would be fined one dollar for drunkenness. Men convicted of drunkenness for a *third* time could be “punished by a fine not exceeding ten dollars, or imprisoned in any place now provided by law for common drunkards for a term not exceeding one year.”⁵⁵ As a result, women subject to the 1879 law confronted incarceration sooner than men, and for a longer period of time. This comparison illustrates that women were subjected to harsher sentences for the same crime as men, and that women’s offenses were less socially tolerable. Scholars like Robinson justified sexist double standards by suggesting that “the women guilty merely of a so-called misdemeanor, for example, soliciting on the street, is more apt to be in need of the reformatory discipline than is the one guilty of a felony.”⁵⁶

In addition to the Indiana Reformatory Institution for Women and Girls and the Reformatory Prison for Women at Sherborn, Massachusetts, two women’s reformatories opened in New York before the turn of the century: the New York House of Refuge for Women in Hudson, in 1887, and the House of Refuge for Women in Albion, in 1893.⁵⁷ The New York Reformatory for Women at Bedford Hills, though approved by the state legislature in 1892, did not open until 1901.⁵⁸ Together, the first four women’s reformatories implemented four features that distinguished them from men’s prisons, and influenced the organization of twentieth-century reformatories to come. Like nineteenth-century prisons, women’s reformatories were designed to implement disciplinary power

as a means of rehabilitation. Within the context of the reformatory, discipline was broadly conceived of and implemented across several training methods designed to rehabilitate women. The three disciplinary characteristics of women's reformatories that Lekkerkerker describes include the mark system, the classification system, and indeterminate sentencing.

The mark system determined the number of "marks against each sentence, which the convicts had to earn by their good behavior and industry before they could obtain release."⁵⁹ In this arrangement, discipline incentivized and rewarded behaviors that corresponded with reform, while simultaneously creating a hierarchy among inmates in the reformatory. The mark system complemented the classification system, which analyzed newly admitted inmates before they entered the reformatory's acclimation regimen. The classification system transformed "each individual [into] a case" by documenting one's life history and establishing a baseline point of reference against which each individual's progress could be measured.⁶⁰ The classification system also oriented new inmates to the reformatory in the same way: "newly admitted prisoners had first to undergo a period of six to nine months of hard, unpleasant labor, which was called the period of probation; after this they were admitted to the second part of the sentence, consisting of four successive grades, each higher one allowing a larger degree of freedom and responsibility than the one below it."⁶¹ Together with the mark system, the classification system emphasized individual progress through discipline. Learning—be it good behavior, domestic labor tasks like sewing, knitting, mending, and laundering, or attending prison school to learn to read and write—forced inmates to discipline themselves.⁶² In order to assess whether or not an inmate was ready to move on to the

next level, reformatories established “examinations”— better imagined as criteria—by which reformatory workers enacted “a normalizing gaze, a surveillance that ma[d]e it possible to quantify, to classify, and to punish.”⁶³ While the goal was to reward women offenders, failure was always within the realm of possibility. In this case, failure to progress signified a failure to rehabilitate.

The mark system and the classification system would not be effective if not for indeterminate sentencing. Different from conventional sentencing practices, in which one receives a sentence to jail or prison for a predetermined amount of time that reflected the severity of one’s offense, the indeterminate sentence guaranteed one’s release only after the individual demonstrated their reformation.⁶⁴ Indeterminate sentences fostered self-discipline and responsibility by giving the offender the “power” to control the length of their sentence. At the same time, the indeterminate sentence exerted power over offenders by organizing the reformatory as a panoptic institution. While women’s reformatories did not use panoptic architecture, the indeterminate sentence produced a similar effect. As Foucault argues, the panopticon functioned “to induce in the inmate a state of consciousness and permanent visibility that assumes the automatic functioning of power.”⁶⁵ The indeterminate sentence worked similarly by reminding inmates that they lived in a state of constant surveillance. The indeterminate sentence automatically embedded inmates within a power structure that forced them to appease the authority who had the power to determine their progress. The surveillance that supported the indeterminate sentence helped organize carceral time by transforming it into productive time that emphasized change, as opposed to passive time that maintained the status quo. Although all reformatory sentences were technically indeterminate, maximum sentences

were eventually established that ensured one's release after five years for felonies, and after two years for misdemeanors.⁶⁶ Regardless, the indeterminate sentence incentivized rehabilitation while simultaneously functioning as a panopticon that "reduce[d] the number of those who exercise [power], while increasing the number of people on whom [power] is exercised."⁶⁷

According to Freedman, the Massachusetts Reformatory Prison for Women made a unique contribution to American prison reform by implementing a practice called indenture.⁶⁸ In 1879, the Massachusetts legislature passed a law that allowed prison commissioners

to bind out for domestic service to a private employer any inmate of the reformatory during her term of sentence, provided she consented to it. The employer was to keep diligent watch over the conduct of the prisoner and to have regard for her welfare and reformation, and to report to the board any of her acts which were improper or wrong. The commissioner could return her to the prison whenever they deemed it necessary for her welfare. This act was frequently applied during the first twenty-five years of the reformatory and was virtually used as a kind of parole: a trial of the woman at liberty which could be revoked if she misbehaved.⁶⁹

In Massachusetts, the use of indenture as a mode of rehabilitation for adult women can be traced back to the state's juvenile reform schools. For example, the Lancaster Industrial School for Girls permitted girls to be indentured to "suitable" families for a two-year period, beginning at age sixteen until their release at age eighteen.⁷⁰ Indenture, for both girls and women, initially involved domestic labor, which necessitated some degree of

vocational training. Although women at the Massachusetts Reformatory engaged in a variety of jobs around the reformatory, many trained as domestic servants who lived and worked in upper-class homes. In order to be eligible for indenture, women had to “be in the highest grade in the prison, which usually meant she had served about three-fourths of her sentence.”⁷¹ The prison superintendent recommended potential indenture placements to women, but each woman and her prospective employer had to agree upon the match.

Indenture reintegrated women into the domestic sphere as they prepared to fully transition from the reformatory to independent living. If, within the reformatory, women learned how to discipline themselves while under constant surveillance, indenture allowed them to practice self-discipline in the absence of the reformatory’s surveillance. In this arrangement, the community replaced the reformatory by facilitating the surveillance of the indentured woman. Indenture could be revoked at any time if women violated the terms of their indenture placement, but successful indenture placements reflected the offender’s ability to practice self-discipline while outside the structure of the reformatory. In essence, indenture gave women the opportunity to prove that they were rehabilitated. Indentured women also earned wages at the prevailing rate that they could access upon their release.⁷²

For criminologists like Sheldon and Eleanor Glueck, “the indenture system [was] one of the practical means of countering the routinizing tendencies of an institution.”⁷³ Although domestic training was initially the “chief function of the disciplinary power” at Framingham, Van Waters’s propensity to indenture poor women, women of color and immigrants, and queer women prioritized the rehabilitation of women who, on account of their identities, were particularly vulnerable to the carceral cycle.⁷⁴ While it is true that

indenture many have reproduced gendered labor expectations by confining women to the domestic sphere, Van Waters explored non-domestic opportunities for her students that helped transition women to life beyond the reformatory. Within the larger history of American incarceration, the indenture system remains one of the most progressive forms of rehabilitation that uplifted multiply marginalized women who inhabited the reformatory. And yet, despite indenture's contributions to progressive penology, it fell under relentless attack over the course of Miriam Van Waters's career.

Indenture at the Massachusetts Reformatory for Women, 1911-1948

Miriam Van Waters's predecessor, Jessie Hodder, served a twenty-year term as Superintendent from 1911 until her death in 1931. A tour de force in her own right, Hodder implemented five critical changes to the reformatory, without which Van Waters would have had considerably less success. In addition to removing the word prison from the reformatory's name, Hodder altered the landscape of the reformatory.⁷⁵ She introduced what was known as "the cottage system" at Framingham, which housed small groups of women in cottages located near or beyond the borders of the reformatory. Beginning with the two Houses of Refuge that opened in New York in 1887 and 1893, the cottage system quickly became standard practice among reformatories built in the late eighteenth century because they focused on the development of domestic skills.⁷⁶ Implementing the cottage system at Framingham restored the reformatory's position as a leader in women's penology. Hodder also remodeled "punishment division" of the reformatory by replacing cellblocks with a gymnasium that allowed women to exercise. An emphasis on physical activity, in conjunction with the cottage system, introduced

subtle forms of discipline at the reformatory that completely bucked the traditional organization of prisons.

In addition to new cottages and a new gymnasium, Hodder undermined the carceral cycle by introducing a classification system and clearing house at the reformatory. The clearing house, as Lekkerkerker reports, was “equipped with a laboratory, where medical, neurological, psychiatric and psychological studies could be made of each prisoner.”⁷⁷ The introduction of the clearinghouse reflects the influence of Dr. Katherine Bement Davis, the first Superintendent at the New York State Reformatory for Women at Bedford Hills. Davis emphasized the importance of the psychological evaluation of women offenders, which garnered attention from public figures and scientists interested in studying the nature of women’s crime, and subsequently led to several bodies of research on incarcerated women.⁷⁸ Hodder’s interest in incorporating scientific methods into the reformatory also reflected the larger urge to use science to aid in the development of individual treatment plans.

The information gathered from each woman, including her family history and economic background, certainly reflects the kind of surveillance associated with a disciplinary institution. However, the classification system also served the purpose of decriminalizing mentally ill women. Hodder called for “mentally defective” inmates to be transferred to a “custodial institution designed for this class of women.”⁷⁹ Though Lekkerkerker emphasizes that the reformatory was poorly equipped to treat mentally ill women, Hodder believed that they “should not be stigmatized as offenders.”⁸⁰ In the midst of the eugenics movement, which advocated for the separation and sterilization of “mental defectives,” many women scientists working within the Progressive tradition

hesitated to adopt “biological nor psychological nor economic determinism.”⁸¹ By calling for the decriminalization of women with mental illness, Hodder refused the eugenic belief that the mentally ill were predestined to perpetrate crime or delinquency.⁸² Building on Hodder’s rejection of biological determinism, Van Waters similarly insisted that an individual’s social circumstances led to offenses as opposed to their biological makeup.

Within the context of the carceral cycle, one might expect that classification information would facilitate the production of delinquency by predicting which women were most likely to recidivate. However, Hodder and her multidisciplinary team used the classification system to create treatment plans that benchmarked each woman’s progress and ensured the rehabilitation of criminalized women. The classification system helped Hodder focus on the production of docile bodies that would theoretically afford women more mobility outside of the reformatory. In addition, Hodder’s classification system complemented her interest in research, and eventually led to the establishment of a research department at the reformatory. Hodder evaluated the effects of the indeterminate sentence “on the basis of the scientific information gained,” but also studied the effects of indenture.⁸³ In 1920, Hodder published an article titled “Indenture of Prisoners: An Experiment,” in which she detailed the success of the program. From Hodder’s perspective,

we do not plan to bind the prisoner to labor—we mean to apprentice her to life, to learn to live in the world. We shall place her at work for wages, and we shall expect her work to be excellent and the wage high, but

neither the work nor the wage is our primary object; they are but the means whereby we shall get the prisoner beyond the reformatory walls.⁸⁴

In emphasizing indenture's ability to reduce recidivism rates, Hodder highlighted the necessity of preparing women to transition out of institutional life. Learning to live in the world meant practicing internalized discipline—an experience that simply could not take place within the boundaries of the reformatory. Indenture allowed women to practice self-discipline, gain vocational experience, and earn money while acclimating to society.

Women's reformatories, like all carceral institutions, were not exempt from, or immune to, participating in the carceral cycle. However, superintendents like Jessie Hodder and Miriam Van Waters made deliberate decisions to thwart any production of delinquency at the Massachusetts Reformatory for Women. Van Waters continued Hodder's legacy by expanding indenture, even when it meant "stretching its scope far beyond the letter of the law."⁸⁵ While Van Waters defended indenture against political attack throughout her career, the vicious cycle of critique crystalized in 1948 and played a significant role in her 1949 dismissal. The attacks Van Waters faced prior to 1948 can be divided into three categories of concern regarding labor, economics, and institutional power.

The most persistent debate about indenture corresponds to a power struggle between the Department of Corrections and the State Board of Parole. Parole was not the only mechanism by which incarcerated individuals could gain release, which frustrated and disempowered the parole board. Writing in 1937, Ralph W. Robart, chairman of the Massachusetts parole board, claimed that there were four methods of release in addition to the parole board: the District Court, the Probate Court, the Massachusetts training

schools, and the indenture law.⁸⁶ In arguing for the centralization of authority, Robart claimed “it [was] obvious that with so many avenues of release open in this Commonwealth, divided authority is bound to manifest itself.”⁸⁷ Although Robart did not detail what, or how, multiple avenues of release would “manifest itself,” advocating for the consolidation of power within the parole board was a covert way of responding to a strategy Van Waters devised to circumvent the parole board altogether.

As superintendent, Van Waters wanted as much control as possible over the release of women offenders. Van Waters prioritized rehabilitating women as quickly and efficiently as possible, but the parole boards Van Waters worked with—a body composed of five men or women appointed by the governor— were not always accommodating or understanding of her penology. For example, Van Waters became irate when she realized certain parole board members “based their decisions about early release on past criminal records, not on progress toward rehabilitation.”⁸⁸ This kind of bias not only presented an obvious obstacle for Van Waters, it completely undermined her ability to do her job. Parole board politics only continued to grow worse in 1935 under Governor James Michael Curley’s administration. To Van Waters’s dismay, the parole system turned “into a kind of indulgence sale, rewarding to the highest bidders with early release.”⁸⁹ Rather than attempt to fix the corruption imbedded within the parole board, Van Waters used indenture to release women who were unlikely to receive a favorable decision from the parole board. The ability to circumvent the parole board was of critical importance to Van Waters’s strategy, which was well within her power as superintendent.

That Van Waters’s political opponents attempted to destroy indenture in the late 1930s by repealing the 1879 law signifies the state’s urge to (re)establish the carceral

cycle at the reformatory. Despite the fact Commissioner of Corrections Arthur T. Lyman insisted that indenture was an overwhelmingly successful program, members of the parole board continued to call for the repeal of the indenture law.⁹⁰ Reports of indenture abuse appeared in newspapers, including one 1938 report that emphasized indenture's capacity to expose students to immorality. This report suggested that "an immoral offense was committed" in one indenture case, and that "girls had been returned to Sherborn because of immorality while on indenture."⁹¹ Charges of immorality were clearly meant to portray indenture as a uniquely dangerous rehabilitative method, but Lyman backed Van Waters when he claimed that "immorality might enter into any parole or indenture system."⁹² By emphasizing that women offenders could be exposed to immorality regardless of their method of release, Lyman assuaged the public of any fears they might have about indenture, and put to rest the notion that parole was a better form of release for women at the reformatory.

Van Waters faced numerous challenges to indenture throughout the 1930s, but the 1940s also brought two bills that sought to limit indenture. The merits of indenture were highlighted during World War II, when indenture offered a solution to U.S. labor shortages. As Freedman points out, work for imprisoned women "struck a deep nerve in depression-era Massachusetts," but World War II welcomed women into the work force—even imprisoned women—allowing Van Waters to expand indenture.⁹³ Women worked at laundries, a restaurant, a shoe factory, and a hospital, but also engaged in farm and factory labor, including work at defense plants.⁹⁴ Women working at the reformatory were incredibly productive, so much so that "the reformatory earned a certificate of merit from the War Production Board for the greatest per capita production of any institution in

the country.”⁹⁵ The advantages of the reformatory’s program were so great that Commissioner Lyman proposed legislation that would allow men’s prisons to take advantage of the indenture law. In late 1942, Lyman argued that local farmers felt the effects of the labor shortage the most: one farmer, for example, lost a significant part of his apple crop because he did not have sufficient help during harvest.⁹⁶ Lyman charged that indenturing incarcerated men could easily serve two purposes: on the one hand, it could offset the labor shortage; on the other, indenture could benefit “prisoners in their reformation. It would keep them busy on essential work and enable them to send money to their families and possibly help relieve the welfare burden.”⁹⁷ While it is unsurprising that members of the parole board stood in opposition to Lyman’s plan, their resistance reveals how delinquency functioned as a flexible and dynamic category that helped maintain the carceral cycle. It is clear that gender played a significant role in determining who the state categorized as a delinquent, and who the state wished to immunize against delinquency.

Writing in January 1943, Reuben L. Lurie, chairman of the parole board, argued that Lyman’s “proposal smacked of Southern chain-gangs.”⁹⁸ Even worse, “it was suggested that contract labor might cause drunks to be arrested to fill farm jobs.”⁹⁹ Though the parole board opposed to the indenture of women, their opposition to the indenture of men suggests that indenture attacked white masculinity. By invoking the specter of chain gangs, Lurie attempted to argue that indenture would make white men vulnerable to overcriminalization in the same way that Southern black men were disproportionately arrested for violating vagrancy laws. This bold comparison misrepresented indenture as a predatory carceral practice, akin to slavery, that generated

prisoners, when in reality it interrupted the production of delinquency. For Lurie, indenture would jeopardize the freedom of white men in the event their day-to-day behaviors, like drunkenness, were considered 'delinquent' behaviors. Lurie's argument reveals how the parole board carefully used this argument to maintain the carceral cycle, which always functions as a method of power and control. Lurie opposed indenture in order to protect white men from overcriminalization, but he did not acknowledge that women were regularly overcriminalized for crimes like drunkenness. The parole board's opposition to women's indenture represented a different motivation: a desire to keep women within the carceral cycle.

This double standard exemplifies the relationship between illegality and delinquency that Foucault describes as "some dark, secret understanding between those who enforce the law and those who violate it."¹⁰⁰ As Foucault emphasizes, illegal acts do not automatically result in criminalization. In fact, there is a difference between illegality and delinquency that determines who is predestined for power and who is predestined for prison: "a differential administration of illegalities" determined who could get away with illegal acts, and who would be punished for them.¹⁰¹ The parole board opposed the indenture of white men in order to maintain their privilege to participate in illegality without fear. By focusing on keeping white men out of prison, the parole board refused to consider how incarcerated men might benefit from indenture. At the same time, the parole board opposed the indenture of women because indenture interrupted the production of delinquency at the reformatory by reducing recidivism rates. This comparison illuminates the gendered nature of carceral control at mid-century: rehabilitation did not matter to the state so long as white men retained the power to

participate in illegal acts without consequence. To be sure, Lyman's proposal was effectively blocked and never advanced to the state legislature.

In the immediate years following the war, Van Waters maintained sole authority over indenture contracts, and retained WWII contracts that placed students in occupations that extended well beyond domestic employment that the 1879 legislation sanctioned. In 1945, Van Waters succumbed to more formal oversight when the newly appointed Commissioner of Corrections, Paul Doyle, expanded the indenture board to include "Van Waters, her deputies, a physician, and several social workers" who collectively made recommendations for indenture placements. As Freedman notes, Doyle retained the power to approve the indenture board's recommendations, different from former commissioners who signed blank indenture contracts for Van Waters. Despite the fact Doyle was appointed by Democratic Governor Maurice J. Tobin, and as such remained a political liability for Van Waters, the Commissioner and Superintendent worked harmoniously, as evidenced by Doyle's support of indenture placements in factories and other non-domestic occupations. The commissioner's support, paired with the rehabilitative success associated with indenture, led Van Waters to formally advocate for the expansion of indenture. In early 1947, Van Waters began to gather support to amend the 1879 law to formally include non-domestic employment.¹⁰²

Commissioner Doyle protected indenture, but the most successful attack on indenture originated shortly after Van Waters began to lobby to expand indenture. In May 1947, state auditor Thomas J. Buckley publically alleged that indenture allowed reformatory students "to work illegally in private employment for pay 'far below the open labor market.'"¹⁰³ Doyle defended Van Waters in the press by assuring that students

“were paid the same wages as the other employees doing the same work” so as to emphasize that indentured labor was no more attractive to private industries than “free” labor.¹⁰⁴ Buckley’s claim that indentured women’s wages were far less than their free counterparts was not necessarily rooted in a benevolent attempt to pay indentured women the prevailing wage. As Freedman argues, his critique raised the concern that indentured women working outside the domestic sphere threatened employment opportunities that belonged to free men before WWII. Buckley’s use of the word “illegal” in his attack pointed to the fact Van Waters knowingly bent the indenture law in order to place women in non-domestic occupations.¹⁰⁵ Buckley’s attack ultimately portrayed Van Waters as a subversive penologist who enabled women to steal employment opportunities from deserving men. Indenture ultimately empowered women to lead self-determined lives by giving women vocational training that would help them independently maintain a steady income. Employment allowed women to shed their status as delinquents and gain financial independence, therefore interfering in the patriarchal production of delinquency so crucial to the carceral cycle.

Freedman’s analysis of the Buckley attack, and its extension, 1948 legislation that proposed to abolish indenture known as House Bill #1544, argues that gendered labor remained at the core of the indenture debate. However, Reuben Lurie’s 1943 attack also reveals that race played a significant role in the indenture attack, particularly because supporters of HB #1544 claimed that indenture was akin to slavery. This fallacy functioned as a problematic red herring. As Robert Chase emphasizes, the African American men and women who predominantly occupied southern prisons were forced into “literal and legal” slavery that did not compensate prisoners for their labor

whatsoever.¹⁰⁶ Van Waters's rehabilitative indenture program stood in stark contrast to southern prisons that "eschewed rehabilitative programs" by using "hard agricultural labor [to structure] southern prison life."¹⁰⁷ Despite the glaring differences that distinguished indenture from slavery, the anti-indenture arguments that relied upon anti-slavery rhetoric, as Freedman points out, "belied the motive to keep women working in *unpaid* state industries rather than for wages outside the institution."¹⁰⁸ As such, distilling anti-indenture arguments reveals much about the hierarchies organized around gender, race, and class: women, as a category, should only be engaged in domestic labor; white, working-class women deserved to be paid fairly for their work; the state should maintain the right to benefit from the free labor of poor women, women of color, and immigrants.

The right to earn wages while incarcerated remained at the core of the Van Waters controversy. Indenture provided women with money to pay for medical expenses including dental work, glasses, surgical corsets, and orthopedic shoes. Indenture significantly offset the ongoing budget cuts that perpetually reduced the reformatory's medical and clothing budget.¹⁰⁹ Van Waters argued that if indenture was outlawed, as much as \$18,000 in tax dollars would have to be allocated to the reformatory in order to make up for lost wages.¹¹⁰ Still, supporters of HB #1544 ignored indenture's economic advantages and disregarded the ways women financially benefitted from indenture. The state's willingness to ignore these benefits may seem counterintuitive, but this willful ignorance reaffirms that HB #1544 benefitted the state in the long term by restoring carceral control. The state was entirely comfortable with the possibility of diminished living conditions and health care for reformatory women. Even though indenture cost the state nothing—private employers paid women engaged in day work (another name for

indenture), while Van Waters used private funds donated by Geraldine Thompson, a wealthy philanthropist, to subsidize indenture positions within the reformatory—it was still framed as undesirable.¹¹¹

The proposed legislation to abolish indenture targeted Van Waters's rehabilitative methods in an attempt to transform the reformatory into a prison that produced delinquent women. However, as the origins of HB #1544 reveal, legislation was not the only tactic the state used to regain carceral control. Throughout 1948 and 1949, the reformatory itself would experience unprecedented surveillance that sought to detect the production of delinquency. The presence of delinquency within the reformatory would prove that women's rehabilitation was an impossible feat, which consequently justified the need to punish women offenders. The most advantageous way to "detect" delinquency was to frame homosexuality as product of the prison at a time when homosexuality was widely feared and little understood. In the midst of the Lavender Scare and ongoing mid-century debates about sexuality, Van Waters's hope to continue her rehabilitation vis-à-vis indenture was no match for state-sanctioned homophobia.

Queering Delinquency

The Lavender Scare influenced the way Van Waters endured political attack, particularly throughout 1947-1949. John D'Emilio and David K. Johnson's scholarship on the Lavender Scare explains how the federal government came to suspect homosexual employees of acting as communist sympathizers and potential informants.¹¹² In the late 1940s, the federal government launched a crusade against homosexuality in an effort to thwart domestic communism. Homophobic, anticommunist hysteria manifested itself as

political conservatism, intense surveillance regimes, and widespread cultural anxiety, all of which factored into the Van Waters case.

As an extension of the Red Scare, the Lavender Scare specifically referred to the national security threat posed by homosexuals on account of their compromised morals and vulnerability to blackmail.¹¹³ According to Johnson, communists and homosexuals were similar because they “seemed to comprise hidden subcultures, with their own meeting places, literature, cultural codes, and bonds of loyalty. As people feared communist ‘cells’ within the federal government, they feared ‘nests’ of homosexuals.”¹¹⁴ Little evidence justified the association between communism and homosexuality, and yet the fear that both communists and homosexuals could hide in plain sight was enough to establish a relationship between the two. Ultimately, homosexuals and communists posed an irrefutable threat to the nation’s survival: while homosexuality endangered American Christian morality, communism threatened to eclipse American democracy.¹¹⁵

The Lavender Scare prompted the State Department’s loyalty checks that were used to quietly purge homosexuals from federal employment as early as 1947.¹¹⁶ On March 21, 1947, President Harry Truman issued Executive Order 9835, which established that “the presence within the Government service of any disloyal or subversive person constitutes a threat to our democratic processes.”¹¹⁷ The executive order called for a loyalty review board that would subject all current and future civilians employed by the federal government to loyalty investigations.¹¹⁸ President Truman’s order did not have to name homosexuals as an explicit target in order to oust them from the government. Rather, he focused on employees who maintained “membership in, affiliation with or sympathetic association with any foreign or domestic organization,

association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive.”¹¹⁹ In the eyes of the government, participating in same-sex sex automatically identified one as a homosexual, which further categorized one as subversive and morally weak, thus justifying grounds for dismissal.

Although President Truman’s executive order affected all federal employees, the State Department took an even more proactive approach to security than the President by dismissing employees who were considered loyalty threats *or* security threats. As Johnson establishes, “persons guilty of espionage or connections to allegedly subversive organizations like the Communist Party were guilty of disloyalty.”¹²⁰ The basis for a disloyalty charge appeared to be evidence based, but the criteria for a security risk was fundamentally speculative. Security risks “*might* divulge secret information, because they were either careless or coerced.”¹²¹ A number of behaviors could designate an individual a security risk, all of which focused on an element of moral pathology.

The “alcoholic, the loquacious, [and] the pervert” were the predominant types of individuals considered to be security risks, but behavioral characteristics including “habitual drunkenness, sexual perversion, moral turpitude, financial irresponsibility or criminal record” also flagged individuals as security risks.¹²² Ultimately, the State Department identified characteristics that might lead individuals to divulge secret or sensitive information to communist spies or other foreign entities, who could in turn use this intelligence to subvert or otherwise harm the United States. The loquacious individual might reveal information on account of being over talkative, while the alcoholic might reveal state secrets under the influence. But as Johnson emphasizes,

“only the pervert was always [considered] a security risk.”¹²³ On the one hand, the State Department believed that homosexuals’ susceptibility to blackmail would lead them to offer information to communists. On the other hand, the capacity for homosexuals to pass as heterosexual rendered homosexuals an even greater threat.¹²⁴ A fundamental issue nagged as the purge of homosexuals began, which undoubtedly contributed sexual panic: what, precisely, counted as homosexuality?

In the absence of material evidence that proved one engaged in same-sex sex, government officials in the late 1940s were forced to contend with a question that could not be easily answered.¹²⁵ As Naoko Shibusawa points out, the lack of “physical markers used to reject individuals from entrance into the military or the nation, such as flat feet, hookworm, or syphilis” were unavailable to the various committees charged with the task of identifying security risks.¹²⁶ Matters were made more complicated by the lack of racial diversity in the civil service, forcing the State Department to locate the alleged security risks among a homogenous group of white men and women. In addressing the fact that racial minorities “could not serve as convenient scapegoats,” Shibusawa argues that the State Department relied upon “‘othering’ homosexuals as the very opposite of what loyal public servants supposedly stood for. . . [because] [t]hey did not know what to look for in a potential security risk.”¹²⁷ Indeed, the State Department’s criteria for homosexuality relied upon conflating homosexuality with “immoral” behaviors that had little to do with one’s sexual identity or desires. For example, Johnson notes that homosexuals were believed to be gregarious, and therefore at risk of sharing secrets, while 1940s psychiatrists linked alcoholism to latent homosexuality.¹²⁸ In addition, many maintained that homosexuals were inherently criminal—a belief that dated back to nineteenth

century.¹²⁹ Overall, the State Department's failure to arrive at a definition of homosexuality was perhaps pragmatic: the suspicion of homosexuality, or any other behavior believed to be associated with homosexuality was enough to justify one's dismissal. However, the federal government's inability to specifically define homosexuality—at least as anything other than the accumulation of moral pathologies—reflects upon very instability of the term.

Sexologists engaged in research on homosexuality remained divided over two key issues. First, sexologists remained conflicted over the cause of homosexuality. Writing at the turn of the century, sexologists such as Havelock Ellis reaffirmed the nineteenth century belief that homosexuality was a congenital condition, and could not be cured.¹³⁰ Ellis's position stood in contrast to Sigmund Freud, who asserted that homosexuality was an acquired trait, and as such, had the potential to be reversed or cured with appropriate treatment.¹³¹ The second debate corresponded to the definition of homosexuality. Homosexuality was difficult to define because it was unclear "how much" homosexuality one had to engage in—by way of one's acts or desires—to constitute a homosexual identity. While sexologists like Richard von Krafft-Ebing argued that effeminate men and masculine women were an indication of "true" homosexuality on account of their gender inversion, this logic failed to account for masculine men and feminine women.¹³² As Regina Kunzel notes, Krafft-Ebing made "an effort to distinguish between homosexuality caused by inborn anomaly, which he termed 'perversion,' and its 'acquired' forms, which he labeled 'perversity.'"¹³³

Mid-century understandings of homosexuality grew increasingly complicated in 1948 with the publication of Alfred Kinsey's *Sexual Behavior in the Human Male*.

Kinsey's groundbreaking study not only claimed that 10% of the population was homosexual, but that the vast majority of individuals experienced some form of same sex desire.¹³⁴ Kinsey established the idea of sexual fluidity by demonstrating that one's desires and behaviors can change over time, thus prompting the development of the Kinsey Scale. This scale, which denoted exclusive heterosexual behavior and desires at the 0 mark, and exclusive homosexual behavior at the 6 mark, suggested that many individuals could fall anywhere between 0-6, where a 3 denoted an equal amount of heterosexual and homosexual desires and/or behaviors.¹³⁵ Kinsey's research was groundbreaking, but as Kunzel points out, his study was heavily critiqued because his data, "which he presented as a representative sample of American men," included "sexual histories of convicts, outcasts, and deviants. . . and imprisoned sex offenders."¹³⁶ Although Kinsey's data remained unaffected when he removed prisoners from his dataset, this critique reflected the belief that homosexuals were inherently criminal.¹³⁷

While the federal government and sexologists concerned themselves—albeit for very different reasons—with understanding the definition and cause of homosexuality, these questions were amplified within American prisons. Sexologists and prison officials were well aware of the high incidence of homosexuality within prisons. Kunzel explains that, "because of the close connections between criminality and sexual deviance forged in the criminological imagination, the fact that the population of criminals and homosexuals overlapped was utterly predictable."¹³⁸ While the targeted criminalization of homosexuals explained the higher rates of homosexuality in prisons, many believed that prisons caused homosexuality. This fear was particularly intense at mid-century, Kunzel suggests, due to the belief that "prison, rather than simply collecting perverts, played an active part in

producing them.”¹³⁹ In fact, when the state charged that Van Waters condoned homosexual relationships among reformatory students, they implied that Van Waters produced homosexuals.¹⁴⁰ In a cultural moment where homosexuality was perhaps the most dangerous form of delinquency, the insinuation that Van Waters produced homosexuals had the capacity to destroy her career.

The notion that homosexuals filled prisons was not altogether unsupported: Dr. George W. Henry and Dr. Alfred A. Gross’s study of male homosexual delinquents solidified the figure of the homosexual delinquent when they revealed that “members of this delinquent group are social liabilities” due to high recidivism rates, addiction, poverty, and a “poor biological start.”¹⁴¹ Acknowledging the alleged production of homosexuality in a predominantly white women’s reformatory only increased moral panic and outrage in the midst of the Lavender Scare. According to population data gathered by Lekkerkerker between 1927 and 1929, 80.1% of students at the Massachusetts Reformatory for Women were classified as “native white.”¹⁴² The remaining 19.9% of the reformatory’s population represented foreign-born women, including “colored foreign-born” women, across eleven nationalities.¹⁴³ It is unclear how “native” black women were classified at Framingham, but evidence of a racially integrated institution implies that black women in the Boston area were sent to the reformatory.¹⁴⁴ On the one hand, Framingham’s integration suggests that the incarceration of black women in Massachusetts might have inverted a growing national trend in which, according to Cheryl Hicks, more black women served time in “custodial local jails. . . than in rehabilitative institutions.”¹⁴⁵ On the other hand, it was common for so-called “integrated” reformatories to segregate within the institution on account of

racism that underscored a desire to curb intimate relationships among black and white women.¹⁴⁶ Van Waters's decision to maintain racial integration would have been suspect in an era where "any degree of closeness between people of different races was likely to be interpreted. . . as implying a sexual relationship."¹⁴⁷

Van Waters's academic training influenced her approach to confronting charges of homosexuality at the Massachusetts Reformatory for Women. Van Waters did not ignore same sex relationships, but she did hesitate to assign a homosexual identity to women at the reformatory.¹⁴⁸ Van Waters's interdisciplinary understanding of homosexuality, informed by the fields of medicine, psychiatry, sexology, and social work, influenced her belief that homosexuality was a psychopathology that could be cured. Though it would seem counterintuitive for Van Waters to take this stance, understanding homosexuality as a pathology aligned with her larger belief in rehabilitation. Those who believed in congenital homosexuality were stuck with an immutable condition that could not be changed. By extension, congenital homosexuality could easily be linked to congenital criminality which left no room to support rehabilitation, and instead supported a punitive penology. Van Waters's belief in rehabilitation, however, suggests that she maintained a strategic interpretation of prison homosexuality: homosexuality may be pathological, but its acquired forms had the potential to be treated, redirected, and even cured.

At the reformatory, Van Waters recommended psychological testing for women suspected of homosexuality, but there is little evidence to suggest that Van Waters attempted to cure homosexuality, or convert known homosexuals at Framingham to

heterosexuality.¹⁴⁹ In one 1948 letter to the Massachusetts Society for Mental Hygiene, Van Waters described the Reformatory's procedures for psychological testing:

The Rorschak [sic] test is given to selected cases. Results are interpreted by my brother, Ralph Van Waters, psychologist, formerly with the State Department of Criminology and Juvenile Research in Illinois, now operating a clinic in Boston. Cases are selected on recommendations of a psychiatrist or on referral from the classification committee.¹⁵⁰

In noting that the Rorschach test was implemented at Framingham, Van Waters cited her commitment to a test that was commonly used to detect homosexuality among men. Peter Hegarty explains that the Rorschach test was developed by the Swiss psychiatrist Hermann Rorschach in 1921, but became popular in the United States in the early 1940s when "homosexuality became grounds for psychiatric exclusion from the military for the first time."¹⁵¹ In the midst of World War II, Rorschach tests were regularly administered to prospective servicemen in group settings, and interpreted in order to identify homosexuals and dishonorably discharge them from military service.¹⁵²

An individual's response to the ten Rorschach inkblots was believed, in the 1940s, to reveal information about their unconscious. A psychiatrist or trained researcher could compare an individual's response to the inkblots to Rorschach's interpretive schemas, and determine whether the subject was homosexual or heterosexual. Although interpretive schemas for the Rorschach test would continue to be refined and developed, the test was still an incredibly subjective method for detecting homosexuality. Indeed, as Allan Bérubé demonstrates, it was not uncommon for sympathetic military psychiatrists to cover up their patient's homosexuality by purposefully misdiagnosing them.

Sometimes this meant misdiagnosing a patient with a physical condition, while other times psychiatrists misdiagnosed patients as psychoneurotic instead of homosexual.¹⁵³

The goal of these “humane errors” was to keep the word homosexual out of the patient’s medical records, which would grant them an honorable discharge from the military.¹⁵⁴ A Rorschach test that pointed to homosexuality could be purposefully misinterpreted, or be overturned by a psychiatric examination.

In returning to Van Water’s letter to the Massachusetts Society for Mental Hygiene, it is noteworthy that Van Waters omitted information related to treatment protocols for homosexuals at the Reformatory. In fact, it would be difficult to prove that Van Waters established a treatment plan for homosexuals, considering, as Freedman points out, the “psychiatric records at Framingham reveal that the staff tried to avoid ‘any punitive attitudes’ toward homosexual behavior, especially if the Rorschach test did not provide ‘positive evidence.’”¹⁵⁵ Not only did the staff at Framingham avoid punitive attitudes, the Rorschach test was administered but rarely used to diagnose a woman as homosexual. Psychiatric records corresponding to September 1948 reveals a list of women identified as possible homosexuals.¹⁵⁶ In these records, the staff psychiatrists, Dr. A. Ward and Dr. H. Baker, consistently avoid diagnosing the women as homosexual, even when they admitted their homosexual desires. For example, one woman’s psychiatric observation indicated that she was “dominated by homosexual feelings” but that there was “no evidence” of homosexuality at the reformatory.¹⁵⁷ This woman’s Rorschach test did “not provide positive evidence regarding homosexuality,” but it also did not rule it out: “personal experiments of this nature on her part are not impossible.”¹⁵⁸ Overall, the psychiatrist concluded that “there is no indication, however, that this is a

basic problem,” and the woman was paroled to her mother within six months.¹⁵⁹ Another observation concerning a woman rumored to be homosexual concluded that there was “no evidence of homosexuality although she is a tom-boy in appearance and has an attitude of reliance and self confidence.”¹⁶⁰ Despite her masculine gender transgression, the psychiatrist argued that the woman “had made much improvement” and was “a suitable person for parole consideration.”¹⁶¹

Like WWII psychiatrists, psychiatrists at the Massachusetts Reformatory for Women were reluctant to diagnose women offenders as homosexuals in the absence of overt evidence of homosexual acts. At most, Framingham psychiatrists labeled women as a “homosexual type,” which, as one psychiatric observation emphasized, did not mean the woman in question was “a homosexual,” but “merely ‘a type’” of homosexual.¹⁶² Within the context of Freudian psychiatry and sexology of which Van Waters was a proponent, this meant the woman could be considered a latent, or unconscious homosexual. Alternatively, a repressed homosexual was another possibility, which, different from the act of suppressing homosexual desires, suggests that homosexuality is “unable to enter consciousness.”¹⁶³ Overall, psychiatrists overwhelmingly diagnosed women as having a “psychopathic personality.”¹⁶⁴ Just as WWII psychiatrists used a psychoneurotic diagnosis to circumvent a homosexual diagnosis, reformatory psychiatrists avoided homosexual diagnoses by instead diagnosing women with psychopathic personalities, a significantly more vague personality disorder.

There are several strategic explanations for why Van Waters, and by extension, the psychiatrists she worked with, would have avoided diagnosing women offenders as homosexual at the Reformatory. Women who were known homosexuals, while eligible

for indenture under Van Waters, would stand little chance of parole in front of a conservative parole board who would view homosexuality as an incurable form of delinquency. This fear was legitimated by the fact that even cooperative parole boards could do little to justify parole in the face of overt homosexuality. On July 3, 1944, one woman's parole was revoked because she had "been engaged in homosexual activities to such an extent that she is unable to adjust in employment."¹⁶⁵ Although the parole board was aware of a previous parole violation the woman committed on May 15, 1944, they overlooked this violation and did not take action against her until reports of homosexuality surfaced. After parole was revoked, this woman was transferred to the Salem House of Correction, a jail north of Boston in Essex County, for two years before being transferred back to Framingham. Ultimately, this woman, who was known to participate in homosexual acts at the reformatory, married a man in 1946, and was released from the reformatory in 1947.¹⁶⁶ This example reveals that known homosexual prisoners could be punished by adding years to their incarceration, not because they committed new crimes, or violated their parole, but because of their delinquent sexuality.

Regardless of what Van Waters personally believed about homosexuality, the criminalization of homosexuality significantly undermined her ability to rehabilitate women offenders at Framingham. In an effort to prevent delinquency and homosexuality from being conflated, it worked to a woman's advantage to be classified as having some other psychological condition other than homosexuality to increase their odds of obtaining release. Another reason Van Waters and her staff hesitated to diagnose women as homosexual rests in the fact a homosexual diagnosis may have been a misdiagnosis. Within the context of the reformatory, the distinction between a "real" or "true"

homosexual was difficult to discern. What was known, however, was that same-sex sex was to be expected in institutions that segregated its inhabitants from the opposite sex.

Among the sexologists who researched the cause of homosexuality, many were primarily concerned with the occurrence of “congenital” homosexuality among middle and upper-class whites whose same-sex sex threatened white supremacy.¹⁶⁷ As Melissa Stein outlines, the alleged biological inferiority of “lower classes” and “lower races” advanced by scientific racism led sexologists to conclude that African Americans, people of mixed race or ethnicity, and immigrants spread homosexual vice.¹⁶⁸ For example, feminine women like Antoinette DiBenedetto—on the cusp of whiteness, yet Italian; pious and respectable, but probably working class—did not fit neatly into the homosexual rubric advanced by American sexologists. In the eyes of the homophobic public, it was shocking to imagine that a woman of DiBenedetto’s social stature could potentially be embroiled in a homosexual relationship. Van Waters’s belief in acquired homosexuality was hardly reassuring in this context—especially when she collapsed the racist and classist distinctions of American sexology by affirming that it was normal for women, regardless of background, to engage in same-sex sex when institutionalized.

While American sexologists were often unsympathetic towards homosexuals, several prominent European sexologists advocated on behalf of homosexuals. In analyzing Van Waters’s thoughts on homosexuality, it would seem that she followed the work of Dr. Magnus Hirschfeld: a renowned German sexologist who led Europe’s gay-rights movement by insisting that homosexuality was congenital, and therefore must be decriminalized in Germany. In 1919, Hirschfeld founded the Institute for Sexual Science in Berlin, which functioned as both a free medical clinic and a research lab that offered

free public lectures. The Institute survived until 1933, when Hitler ordered it to shut down, resulting in the burning of Hirschfeld's collection and the Institute's robust library. Hirschfeld died of illness in 1935, but his students compiled his work in a collection titled *Sexual Anomalies: The Origins, Nature, and Treatment of Sexual Disorders*. Published in 1948, this text was imagined by Hirschfeld as a "textbook for those whose professional duties render a knowledge of sexual pathology necessary or useful, such as students, criminologists, judges, probation officers, [and] educators." Even though Van Waters and Hirschfeld disagreed on the origins of homosexuality, Hirschfeld's theory of female homosexuality proved useful to Van Waters.¹⁶⁹

In advocating for the decriminalization of homosexuality, Hirschfeld argued that homosexuality could not "be eliminated by psychological means," and consequently rejected psychological interventions like hypnosis as a form of treatment. Although Van Waters believed homosexual urges could be cured, or at least redirected, Hirschfeld's examination of female homosexuality helps explain Van Waters's reluctance to diagnose women offenders as homosexual. Hirschfeld believed, in accordance with Havelock Ellis, that women may "seek sexual satisfaction in Lesbian love, as a substitute for normal intercourse. This applies with even greater force where intercourse with men is in itself difficult or impossible, while intercourse with women is particularly easy." The prison, according to Hirschfeld, was a totally unsurprising site for lesbianism because women had little to no access to men.¹⁷⁰

Although Hirschfeld acknowledged the existence of genuinely homosexual women, he believed that most homosexual women were actually "pseudohomosexual." Hirschfeld primarily distinguished genuine homosexuality from pseudohomosexuality

by comparing an individual's sexual acts with their sexual desires. For Hirschfeld, genuine homosexuality "only exists where the physical acts are an outcome of homosexual mentality," while pseudohomosexuality "relates to homosexual acts which are not determined by a consistent mentality, but are directed by aims which are outside the sphere of the sexual impulse." In distinguishing between sexual acts and sexual desires, or "mentality," Hirschfeld emphasized that one's sexual acts may not align with one's mentality, or sexual desires. This meant that pseudohomosexual women were not pathological, especially if they had been seduced by a homosexual woman. Hirschfeld's theory of pseudohomosexuality is reflected in Van Waters's belief that women exhibiting homosexual tendencies at the reformatory were quite likely temporary and circumstantial departures from heterosexuality.¹⁷¹

At Framingham, Van Waters possessed two scientifically backed strategies that allowed her to downplay the occurrence of homosexual acts among reformatory women, and avoid the propensity to use homosexuality as a means of justifying one's incarceration. On the one hand, women who acknowledged their homosexual desires, but who did not produce psychiatric evidence of homosexuality through the Rorschach, could not be considered genuine homosexuals. On the other hand, women who participated in homosexual acts could not be considered genuine homosexuals if their desires potentially still aligned with heterosexuality. As fears of homosexuality and communism spread, however, the difference between genuine homosexuality and pseudohomosexuality mattered little as post-war conservatism took hold and the Lavender Scare spread. Eventually, there was little Van Waters could do to circumvent the idea that prisons produced homosexuality. As the reformatory succumbed to intensive state surveillance,

Van Waters simultaneously succumbed to an attack that sought to destroy her personally and politically.

The Chief Pervert's Lavender Delinquents

Miriam Van Waters's indenture program attracted decades worth of negative attention from the Massachusetts parole board, and yet, for years, Van Waters managed to survive this ongoing power struggle. The death of Antoinette DiBenedetto, however, launched a two-pronged attack that transformed the reformatory into a prison by destroying indenture and using homosexuality to justify the punitive imprisonment of women offenders. In fact, destroying indenture only became possible after the reformatory succumbed to intensive surveillance that appealed to the Lavender Scare by making a spectacle of homosexuality at the reformatory. Writing in September 1948, Van Waters recognized the power of the carceral cycle as it attempted to overthrow rehabilitation: "The time is evidently at hand for the people of Massachusetts to make up their minds if the Reformatory For Women is to continue its work of rehabilitation," Van Waters wrote, "or to be run as a prison."¹⁷² Van Waters recognized that the state's crusade to destroy her and her methods of rehabilitation was the prelude to a new era of women's prisons.

Over the course of her career, Van Waters's contributions to the fields of penology and social work led her to national and international prominence among academics, clergy, penologists, and politicians. As a product of the progressive movement, the rise of the Cold War transformed Van Waters from a celebrated progressive into a dangerous subversive whose expertise potentially threatened national

security. Johnson's study of the Lavender Scare emphasizes that the rapid expansion of the federal government, as part of the New Deal implemented by President Franklin Delano Roosevelt throughout the 1930s, led many Americans to believe "that bureaucracy was a powerful, emasculating, immoral force subverting American's democratic traditions." In addition to the emasculated men who worked in the federal government, many of the new civil servants were women who "invaded the male workspace" and inverted "the natural order" when they refused to return to the domestic sphere. Not only were civil servants frequently "better educated and of a higher social origin than the law makers," they were perceived as a threat because they were considered an "antidemocratic force" that seized power from "the people's elected officials." Van Waters may not have endured the same kind of loyalty/security checks that federal civil servants experienced in Washington D.C., but she undeniably resembled the type of civil servant that threatened the government.¹⁷³

As an appointed state employee, Van Waters occupied the middle ground between an elected politician and a hired civil servant. Appointing a woman to the position of superintendent was not unusual considering the history of American women's reformatories, but women like Van Waters routinely bucked traditional female gender roles. For example, Van Waters earned her PhD in anthropology in 1913, which, aside from being rare for women in the early twentieth century, equipped Van Waters with opportunities to publish, travel, and ultimately lead the fields of social work and penology.¹⁷⁴ As much as Van Waters's education empowered her, it simultaneously portrayed her as an approximation of the well-educated civil servant. A woman with a

doctoral degree represented the kind of intellectual expertise that rendered well-educated civil servants suspicious.

As an unmarried woman, Van Waters put her career ahead of her personal life, particularly as she established her reputation on the west coast. Eventually, Van Waters adopted her daughter after falling “in love” with a seven year old girl that she became acquainted with through her work in Los Angeles’s juvenile courts.¹⁷⁵ At the same time Van Waters entered motherhood, she also transitioned into another life-altering relationship when her friendship with Geraldine Thompson evolved into a romantic partnership. Thompson’s influence and philanthropy eventually facilitated Van Waters’s ability to find gainful employment Boston, but their physical proximity did not mean their relationship was any less discreet. Although the two spent extensive time with one another’s families over more than forty years, neither Van Waters nor Thompson identified as lesbians, much less as homosexual.

Van Waters’s sexuality is difficult to describe because her relationship with Thompson began at a time where the language used to describe women who loved women was in flux. According to Estelle Freedman, it would be ahistorical to refer to Van Waters or Thompson as lesbians, a term which throughout the early twentieth century functioned as a pejorative typically used to describe working class, overtly masculine, and/or women of color.¹⁷⁶ Van Waters and Thompson’s whiteness and conventional femininity, in addition to the benefits both women gleaned from Thompson’s wealth, squarely excluded them from the category of lesbian. Even in the event Van Waters and Thompson occupied different social positions, Lillian Faderman argues that many women who loved women would have refused to identify as lesbians in

the 1930s on account of their financial dependence upon men, fear of the resentment associated with seeking independent employment, and/or discomfort with the pathological rhetoric associated with homosexuality.¹⁷⁷ For women like Thompson who maintained access to wealth through her husband, identifying as a lesbian would likely destroy her marriage, and by extension, the “respectability of that socially condoned institution.”¹⁷⁸ However, Van Waters, as a beneficiary of other women’s wealth, had the opportunity to live a more subversive life and risk the loss of femininity associated with holding an “important professional position.”¹⁷⁹ Even though World War II ushered in a more tolerant social climate that would have allowed Van Waters to identify as a lesbian with fewer consequences, it was still difficult for the women of Van Waters’s and Thompson’s generation to shed the myriad negative connotations associated with lesbianism.

It is impossible to arrive at an identity that accurately describes Van Waters. However, her relationship with Thompson need not be called a lesbian relationship in order to consider Van Waters a queer figure. The extent to which Van Waters and Thompson engaged in a sexual relationship is irrelevant to scholars like Jennifer Reed, who emphasizes that “one does not have to ‘know’ what physically happens between people to know they are creating intimacies that matter, outside of the terms of heteronormativity.”¹⁸⁰ In accordance with Reed, the term queer signals Van Waters’s refusal to acquiesce to compulsory heterosexuality, while also accounting for Van Waters’s capacity to challenge hegemonic femininity. Van Waters’s queerness is noteworthy because she was keenly aware of the vulnerability that living outside of social norms entailed. For instance, Van Waters’s relationship with Thompson supported Van

Waters's rehabilitative work at Framingham, but this relationship simultaneously put Van Waters's livelihood at risk in the event political enemies discovered the romantic nature of their relationship. In fact, Van Waters proactively protected herself from homosexual and/or lesbian accusations when she decided to burn her personal correspondence with Thompson at the height of the state's surveillance of the reformatory in 1948. Noting in her journal that "one can have no personal 'life' in this battle," Van Waters deliberately burned Thompson's "many letters over 22 years."¹⁸¹ Freedman understands Van Waters's remark as "the smoking gun" that explains the absence of intimate correspondence between Thompson and Van Waters, but this passage also suggests that Van Waters's deliberate silences, gaps, and absences speak the loudest as Van Waters occupied an unspeakable identity.¹⁸²

Van Waters and Thompson were not the only couple whose relationship eschewed a clear and definitive label in the 1930s and 1940s. For example, Van Waters and Thompson maintained close ties to Eleanor Roosevelt, a friend of Thompson's. Reed emphasizes that the public never identified Roosevelt as lesbian or bisexual, but several historians agree that Roosevelt led a queer life. According to Reed, Roosevelt's "expansive affectional capacity, her ability to love intensely outside of heteronormativity, and her positioning as a woman outside the norms of femininity [made] her queer."¹⁸³ Historians often invoke Roosevelt's letters to Lorena Hickok as evidence of their romantic relationship, though many historians maintain that their relationship was platonic. The content of Roosevelt's letters are difficult to read as platonic exchanges, but it is also significant that Hickok, like Van Waters, burned "the most explicit of the letters" she received from Roosevelt. Rodger Streitmatter's compilation of Roosevelt and

Hickok's letters includes an anecdote in which Hickok explained to Eleanor's daughter, Anna, that "your Mother wasn't always so very *discreet* in her letters to me."¹⁸⁴ While the contents of Hickok and Van Waters's burned letters will always be unknown, the urge to destroy this correspondence points not to a definitive identity, but to an awareness of the consequences of existing as a woman who loved another woman. Power and privilege did little to protect against the stigma associated with loving and existing beyond heteronormativity.

Despite all the ways in which Roosevelt lived a queer life, she was still considered an extraordinary influential political ally. Thompson initially introduced Van Waters to Roosevelt as a means of drawing political attention to the Massachusetts Reformatory for Women at various points throughout Van Waters's career. Roosevelt visited the reformatory five times between 1940 and 1957, after which Roosevelt would sing Van Waters's praises in her syndicated newspaper column, "My Day." For example, after visiting in the fall of 1945, Roosevelt remarked that the reformatory needed "new buildings and, under the new commissioner, they hope to get some of them."¹⁸⁵ For Roosevelt to use her political clout as former First Lady to publically pressure a state official to act is merely one example of Roosevelt's queerness at work that demonstrated her ability to assert herself as an authoritative political figure. Van Waters undeniably benefitted from Roosevelt's endorsement, but Johnson's scholarship points out that by 1948, Americans believed that the New Deal contributed to the loosening of the country's moral codes, which in turn, promoted homosexuality.¹⁸⁶ For those who viewed Eleanor Roosevelt as a subversive figure, an association with Roosevelt further positioned Van Waters as sympathetic to subversion. Although, as Freedman puts it, Van Waters was

“never accused of communist sympathies,” Van Waters consistently engaged in subversive acts as a woman, mother, romantic partner, penologist, and superintendent. The ways Van Waters consistently pushed the boundaries of hegemonic femininity were easily enumerated.

In the early months of 1948, the attack on indenture and the attack on homosexuality at the reformatory quickly converged. On January 9, Van Waters learned that Congresswoman “Leslie Culter [would be] introducing a bill at Miss [Katharine] Sullivan’s request about indenture.”¹⁸⁷ Noting the day before that the parole board was uncharacteristically “gentle” and caused “no destruction,” Van Waters finally understood that the parole board was conserving its energy for a much larger battle.¹⁸⁸ The significance of Katherine Sullivan’s request was not lost on Van Waters. Governor Tobin appointed Sullivan to the parole board in 1946, but Sullivan was already critical of indenture after participating in the parole board’s 1936 indenture investigation on behalf of Governor Curly.¹⁸⁹ Sullivan had long opposed Van Waters’s penology: while Van Waters downplayed the severity of moral offenses, Sullivan maintained “a punitive approach to moral offenders.”¹⁹⁰ As a conservative Catholic, Sullivan’s politics were unsurprising, especially in contrast to Van Waters. As a Protestant, Van Waters placed the notion of redemption at the cornerstone of her penology, which differed substantially from the Catholic belief in penance.

Sullivan’s 1956 monograph, *Girls on Parole*, illuminates her motivation in asking Cutler to introduce House Bill #1544 and abolish indenture. Sullivan believed that “a prison system is valueless when it returns its charges to society more corrupt than when it took them, yet this is one of the grave hazards of our prison system today.” Sullivan

identified homosexuality, commonly referred to as “doll racket” at the reformatory, as the moral hazard that could corrupt anyone facing incarceration. In fact, Sullivan was among those who feared that the prison caused homosexuality, writing that “the most tragic inmates are the ones who lived normal lives before being sent to prison and who after ‘doing time’ have not the slightest interest in leading natural lives again.” Sullivan’s belief that prison homosexuals had the capacity to ruin heterosexual women explains her opposition to indenture. If Van Waters used indenture to circumvent the parole board, knowing full well that “moral offenders” stood little chance in front of the conservative board, Sullivan believed that a prison sentence produced delinquent behavior like homosexuality. For Sullivan, destroying indenture would prohibit the rehabilitation of morally corrupt women who were, by virtue of their exposure to homosexuality, impossible to rehabilitate. Abolishing indenture would also restore full power to the parole board, which would help contain homosexuality by denying homosexuals and other moral offenders the opportunity of parole. As an outspoken homophobe, Sullivan maintained that “a true or confirmed homosexual would be an extremely poor parole candidate and I do not recall ever releasing such a woman.” In keeping with mid-century conservatism, Sullivan doubled down on the belief that homosexuals were delinquents. As long as carceral institutions ruined women by exposing them, or converting them to homosexuals, they could not be rehabilitated. As a result, homosexuality, when situated as an irrefutable form of delinquency, provided the impetus to restore punitive carceral control at the reformatory.¹⁹¹

On January 19, 1948, Van Waters consulted with the outgoing Commissioner of Corrections, Paul Doyle, and his Deputy Commissioner, Daniel McDevitt, to determine

what individual or group was spearheading the attack on indenture.¹⁹² Although Van Waters knew that the state auditors were “making the bullets,” and that Sullivan was “suppl[ying] the fear and the hate,” she did not get an answer. Instead, Doyle and McDevitt showed her a letter that demanded “of the commissioner a full examination of the suicide of Nov. 11.”¹⁹³ This warning came days before Elliott McDowell began his term as Commissioner of Corrections in February 1948. While Van Waters remained preoccupied with defeating HB #1544 throughout the month, her attention turned to the surveillance of the reformatory on February 28, when she discovered that McDowell appointed Frank A. Dwyer as his deputy commissioner.¹⁹⁴ Van Waters, well aware of Dwyer’s political commitments, considered him the reformatory’s “chief enemy” not only because he supported HB #1544, but because of his homophobia.¹⁹⁵ “And now Mr. Dwyer, the fox, guards the vineyard (Framingham),” Van Waters wrote, upon learning of Dwyer’s appointment.¹⁹⁶

McDowell and Dwyer visited the reformatory throughout the spring of 1948 to review the indenture contracts Van Waters maintained with local businesses. According to Burton Rowles’s 1962 biography of Van Waters, Van Waters and Associate Superintendent Peg O’Keefe “had trouble satisfying the demand to produce all the day work contracts,” because some of the contracts were made orally, to which “McDowell and Dwyer expressed displeased surprise.”¹⁹⁷ When HB #1544 was defeated in the spring of 1948, McDowell continued to chip away at indenture. On April 22, Van Waters held a conference with McDowell and Dwyer in which they imposed a number of limitations on indenture. McDowell demanded that all indenture records at the reformatory be transferred to the State House, relinquishing Van Waters’s ability to supervise indenture

placements.¹⁹⁸ McDowell further regulated indenture by attempting to ensure that reformatory students were exposed to as little moral vice as possible. In order to ensure that reformatory students did not work for ex-convicts, as had been the case at a restaurant in Wellesley, “McDowell wanted no more [indenture] contracts submitted with the employers signatures already on them. He wanted applications only. His office would check the applications before authorizing any contracts.”¹⁹⁹ Dismantling the indenture program appeared to be McDowell’s primary path of destruction, but he also prohibited Van Waters from hiring former prisoners, even when they were the most qualified candidates for reformatory jobs. Despite the fact Van Waters believed her penology was sound, and that currently incarcerated women benefitted from presence of former inmates, McDowell refused to acknowledge the rehabilitative benefit associated with employing formerly incarcerated women. In addition, McDowell disregarded her requests and decisions, seeking to undermine Van Waters as often as possible. In recalling her encounters with McDowell throughout the spring of 1948, Van Waters wrote that the reformatory “could not secure cooperation from the commissioner.”²⁰⁰

The clerical errors that McDowell would identify upon reviewing Van Waters’s indenture contracts allowed him to limit indenture, but clerical errors alone could not uproot Van Waters from the reformatory. State Senator Lo Presti’s ongoing demands to investigate the reformatory, however, provided a legitimate opportunity to surveil the reformatory’s operation. Although the reformatory had been twice probed regarding the matter of DiBenedetto’s suicide, first by the district attorney’s office, and a second time by Deputy Commissioner McDevitt under Commissioner Doyle’s administration, Lo Presti pressured McDowell to investigate.²⁰¹ On May 1, 1948, Lo Presti announced that

he would travel to the reformatory to investigate DiBenedetto's suicide.²⁰² McDowell informed Van Waters that she maintained the authority to deny Lo Presti and direct him to McDowell, but she could not turn Dwyer away when he arrived two days later to conduct a "death investigation" on McDowell's behalf.²⁰³ Dwyer's investigation, an overt form of state surveillance, quickly transformed into an interrogation as Dwyer harassed reformatory staff and inmates over the coming months as he searched for evidence of homosexuality.

In May 1948, the attacks on indenture and homosexuality converged as Dwyer wreaked unchecked havoc at the reformatory and in the press. As Freedman writes, McDowell sent Dwyer because he was "particularly interested in finding evidence that [DiBenedetto's] suicide might be related to the 'doll racket,' or homosexuality."²⁰⁴ A crusade against homosexuality, in mid-1948, facilitated McDowell's agenda, but it also launched a public attack on the reformatory that sought to discredit Van Waters as superintendent. Over the course of his investigation, Dwyer interrogated and intimidated inmates and staff at the reformatory, and even went so far as tracking down a formerly incarcerated woman and interviewing her while she was drunk.²⁰⁵ Worse, Van Waters suspected that Dwyer leaked his findings to the press. The *Boston American*, according to Van Waters, was a "publication of lies," that published scandalous information about Van Waters and the reformatory that cast a shadow of immorality upon the reformatory.²⁰⁶ Van Waters routinely journaled about the "daily attacks" she encountered in the press. On May 11, she shifted her focus from the "ex-convict employer" that indentured women as waitresses to "prison homosexuality."²⁰⁷ For Van Waters, this shift in attack marked "the darkest hour yet in Framingham."²⁰⁸

As Dwyer pursued the story behind DiBenedetto's death, an inmate with a "mannish nature and deep voice" was identified as the alleged cause of DiBenedetto's death.²⁰⁹ According to Rowles, this particular inmate was "journalistically branded a homosexual who had rebuffed Toni's [DiBenedetto] suit, and either murdered her or [drove] her to depression and suicide."²¹⁰ Although Dwyer ultimately rescinded these claims, conceding that DiBenedetto had indeed committed suicide, rumors of homosexuality at mid-century represented Van Waters's superintendency as lenient, if not altogether subversive. Despite the fact that homosexuality was well documented throughout American prisons, Dwyer sought to "expose laxity in the Van Waters administration," which meant construing any form of homosexual tolerance into a purposefully subversive act.²¹¹

The resolution of the DiBenedetto probe did not subdue Dwyer's surveillance. Instead, McDowell "authorized an expansion of Dwyer's investigation because of the new charges uncovered during the DiBenedetto investigation."²¹² On June 1, Van Waters was "put through the inquisition" and questioned by McDowell and Dwyer for five hours.²¹³ On this day, McDowell outlined a list of Van Waters's infractions derived from Dwyer's investigation. McDowell accused Van Waters of favoritism, charging that "inmates are holding or have held key positions without staff supervision," and that inmates have been allowed off the reformatory grounds without supervision.²¹⁴ He objected to Van Waters's decision to hire formerly incarcerated women and employ staff with criminal records. McDowell's most damning accusation alleged that "many of the inmates receiving special favors [were] 'known' homosexuals or dangerous psychopaths."²¹⁵

McDowell's charges not only portrayed Van Waters as sympathetic to known homosexuals and dangerous criminals, they suggested that Van Waters favored homosexuals at the reformatory. He attacked the Thompson Fund, charging that women "received money from private funds," which "introduce[d] the possibility of favoritism."²¹⁶ According to McDowell's logic, favoritism at the reformatory always benefitted homosexual women—an idea that McDowell perhaps developed after speculating about Van Waters's relationship to Thompson. Although Estelle Freedman notes that Van Waters was not publically accused of homosexuality, she emphasizes how accusations of homosexuality at the reformatory were used to target "not simply love, or even erotic desire, between women, but also any nontraditional female choices, including mannish dress, political authority, and economic mobility."²¹⁷ As such, McDowell's charges must be interpreted as attacking Van Waters on account of her queerness, which did not necessitate publically admonishing her as a homosexual. Indeed, it would be sufficient for McDowell to represent Van Waters as an immoral leader who favored homosexuals, so much so that she strived to systematically rehabilitate them into the community through the indenture program. For McDowell, this meant limiting Van Waters's agency as superintendent, ending rehabilitation, and containing the reformatory's homosexual threat. Delinquent women were irredeemable in the eyes of the state, and deserved to be embedded within a cycle of delinquency, surveillance, and prison.

Van Waters's rebuttal to McDowell's charges highlights how she used psychiatric diagnoses and sexual classification systems to contest accusations of homosexuality at the reformatory. Van Waters's strategy demonstrates how one could invoke psychiatric

expertise in a subversive attempt to protect herself, incarcerated women, and ultimately the reformatory, from hostile accusations of homosexuality.²¹⁸ Van Waters specified that there were “no ‘known’ homosexuals or dangerous psychopaths receiving special favors” at the reformatory.²¹⁹ Furthermore, she stressed that homosexuality was a “medical classification” that must be “diagnosed only by competent authority.” Van Waters needed more professional support to help evaluate women, because same-sex desire “may not be permanent in any event.”²²⁰ By leaning heavily on the expertise of mid-century psychiatry, Van Waters emphasized that she could not recognize homosexuality because she was not a psychiatrist, and as such, could not diagnose homosexuality because it was a medical condition. To Van Waters’s benefit, the reformatory’s staff psychiatrists avoided diagnosing women as homosexuals even in overt cases, which allowed Van Waters to argue that one’s sexual acts, especially while incarcerated, do not necessarily account for one’s identity. While this position did not subdue McDowell and Dwyer’s overt homophobia, Van Waters’s theory of prison homosexuality aligned with Kinsey’s groundbreaking study, further aligning her position with scientific research, albeit research that contributed to controversy and panic throughout the United States.

To further contest McDowell’s charges of favoritism, Van Waters situated acts perceived as favoritism as essential mechanisms of rehabilitation. Van Waters insisted that women were deliberately given more responsibility in accordance with their treatment plan, emphasizing that this approach “aided rehabilitation” and “made the institution more efficient in output.” Similarly, she cited a lack of state funds as justification for the Thompson Fund, which offset the reformatory’s “extreme need” and paid for labor “beyond the line of duty.” Van Waters stressed that the Thompson Fund

increased inmate morale, provided them with incentives, and ultimately offered “a chance for rehabilitation of some of the most perplexing cases.” The Thompson Fund paid for psychiatrists and psychologists when the state budget fell short, without which Waters would have no scientific understanding of prison homosexuality, much less an understanding of how to address this issue within the reformatory.²²¹

Van Waters could not refute the charge that she hired staff with criminal records. She patiently explained that the reformatory was hardly unique in this case. “This is true of other institutions in the state,” Van Waters claimed, “and if these individuals [former convicts] are to be excluded – the policy must be stated – and applied throughout all state functions.”²²² Rather than explain to McDowell why it was strategic to employ formerly incarcerated women, Van Waters demanded that state policy, should it exist, be enforced among all carceral institutions across the Commonwealth.

Despite Van Waters’s efforts to rebut McDowell’s charges, the damage caused by Dwyer’s investigation was impossible to contain in 1948. In her journal, Van Waters described Dwyer as a “character assassin” who “turned gossip into guilt” in order to emphasize the power of Dwyer’s accusations in the midst of a nationwide panic over homosexuality and communism.²²³ The state maintained the ability to discredit Van Waters on account of suspicion, which caused her to fear that Governor Bradford might dismiss her.²²⁴ Accusations of homosexual favoritism caused Van Waters’s methods to carry the “taint of homosexuality,” forcing her to confront the possibility of losing control of the reformatory.²²⁵ Indeed, the sixteen years Van Waters spent disrupting the carceral cycle were coming to an abrupt end.

Within a week of the May inquisition, McDowell presented Van Waters with a list of twelve directives that undercut her agency as superintendent. Among the twelve directives, McDowell demanded that Van Waters terminate indenture contracts for women indentured to Van Waters or a reformatory staff person, while also requiring Van Waters to submit a list of formerly incarcerated women employed by the reformatory as staff.²²⁶ The most damaging directives, however, closed the reformatory's permeable border. These directives demanded that Van Waters keep all women "in custody within the boundaries of the Reformatory for Women" and "permit no prisoner to leave the premises of the Reformatory for Women."²²⁷ Not only did these directives effectively end indenture—only women lawfully indentured in domestic vocations could continue—they created a permanent barrier that divided the reformatory from the Framingham community. For a man like McDowell, who believed "the backbone of the penal institution is custody and punishment," these directives corresponded to the need to contain homosexuals and other delinquent women, and formally introduce the carceral cycle to the reformatory.²²⁸ McDowell destroyed Van Waters's interventions, and in so doing, created an environment that permanently embedded poor and working class women within an unending cycle of incarceration. Aggravated by McDowell's demand for Van Waters to adhere by reformatory rules and regulations dating back to October of 1926, Van Waters insisted that "you cannot revert to rules of a quarter century ago without disruption of modern rehabilitation."²²⁹ Indeed, McDowell accomplished his goal.

Once McDowell issued the twelve directives, he turned his attention to legislative investigations of Framingham, and to the larger project of dismissing Van Waters. When

McDowell received a completed version of what came to be known as the Dwyer Report in late June, he shared the report with Governor Bradford, who authorized a legislative probe into the reformatory.²³⁰ Lo Presti had motioned for a “thorough investigation of the conduct of the Reformatory for Women at Framingham” as early as June 9, 1948, but Bradford did not compile the eleven-person committee until early July.²³¹ Investigating homosexuality remained at the center of the legislative probe. When the press reported on Bradford’s decision to launch a new probe, they continued to refer back to the rumors surrounding Antoinette DiBenedetto’s death, despite the fact Dwyer concluded that DiBenedetto commit suicide and that her death had nothing to do with homosexuality. The press kept the production of homosexuality, and Van Waters’s allegedly subversive penology, at the center of their coverage. The effect of this coverage garnered fervent support for Van Waters among her allies, while many others demanded the “chief pervert” be ousted from the reformatory’s superintendency.²³²

Governor Bradford’s eleven-person legislative committee did relatively little throughout the summer of 1948. By September, an infuriated Lo Presti demanded that Bradford suspend Van Waters because “the facts reveal that the conditions [at Framingham] are so scandalous that they constitute an indictment of the present superintendent of the reformatory.”²³³ The allegedly scandalous conditions at the reformatory were derived from the Dwyer Report, parts of which were published in the *Boston American*. A sustained focus on homosexuality, as Freedman notes, was perpetuated by language that emphasized “charges of ‘shocking sex perversion’ and ‘Immoral Practices’” at the reformatory.²³⁴ The publication of the Dwyer Report stirred the press, but it offered Van Waters little opportunity to defend herself because she never

received a copy of the report, and refused to read the *Boston American's* version.²³⁵ As the possibility of her dismissal came into increasing focus, Van Waters's supporters rallied around her and established the Friends of the Framingham Reformatory, a substantial defense fund for Van Waters's attorney. The Friends organized a strong counter narrative that illustrated the virtues of Van Waters's rehabilitation, often endorsed by clergy in an attempt to combat the misinformation that circulated in the press.

Over the course of the fall Van Waters and her staff regularly worked with an attorney, Claude Cross, and other influential leaders in the Boston community to prepare Van Waters for the looming legislative committee hearing. The legislative committee stalled, however, due to upcoming state elections, which included a gubernatorial race. Van Waters became acquainted with Governor Bradford's opponent, Paul A. Dever, who, to her relief and satisfaction, "affirm[ed] his belief in rehabilitation."²³⁶ In early November, Dever defeated Bradford in a landslide election. Dever's election seemed, at the time, advantageous to Van Waters, but the election of a new governor only served to further interrupt the legislative committee's action in the closing months of the Bradford administration. Days after the election, Van Waters wrote that the "radio says [the] Legislative Committee is folded up. What a frightening Cold War!"²³⁷

After the election, suspicion, anxiety, and paranoia settled into Van Waters's every day life. Despite being the subject of the legislative probe, she received little information about the committee's status—a decision that likely reflected a desire to catch Van Waters in an illegal act by depriving her the opportunity to prepare for the committee's visit. Forced to live as if she were under surveillance, Van Waters never

knew when the legislative committee would descend upon the reformatory. Indeed, contrary to the radio's report, nine members of the legislative committee appeared at the reformatory to investigate on November 18. Though Van Waters learned on this day that Governor Bradford contacted both McDowell and the legislative committee to "call off the public hearing," Van Waters still testified on her penology and the reformatory's conditions at the State House in Boston on November 22, 1948.²³⁸

Van Waters emerged from this hearing with a shallow victory: the legislative committee "voted to call it quits and suggested the 1949 session of the Legislature name another group of probers."²³⁹ Under the impression that Dever was sympathetic to her reforms, Van Waters took immediate action to overturn McDowell's June directives. She met with the League of Women Voters to discuss "plans for legislation," insisting that "we must rid the Commonwealth of this injustice to the woman offender."²⁴⁰ However, on December 5, Van Waters learned that Dever intended to "appoint a new commission (not an expert)" to investigate her superintendency and the reformatory.²⁴¹ In expressing her disappointment in Dever's decision to appoint a new commission of politicians, Van Waters articulated her belief that politicians were ill equipped and frankly too uneducated to judge her rehabilitative program. Emphasizing her position as an expert in penology and social work, Van Waters stated in the press that "law makers and law enforcement officers who are competent to define the laws are not equipped to prevent delinquency."²⁴² The desire to be judged by her peers, however, only served to further portray Van Waters as an intensely subversive bureaucratic figure: she positioned herself and the reformatory as complex, scientific, and illegible to the common politician. At a time when education and expertise were grounds for suspicion and potential subversion

in Washington D.C., Van Waters risked further aggravating Massachusetts politicians by portraying them as too unqualified and uneducated to truly evaluate the women's reformatory.

By December 11, a new rumor circulated in the press: McDowell intended to dismiss Van Waters.²⁴³ Although it was also rumored that McDowell would “not remove her until the new administration [took] over next January—if at all,” Van Waters received widespread support in response to this rumor in and beyond the Boston community.²⁴⁴ Clergy, social workers, politicians, and experts in criminology and penology publically and privately advocated for Van Waters. Despite the public admonishment of McDowell's plan, his intentions were confirmed in the press as early as December 27.²⁴⁵ On January 7, 1949, the same day Governor Dever took office, Van Waters received a list of twenty-seven charges from McDowell that culminated in her termination at midnight on January 11. Van Waters's legal team immediately gathered to assemble a sound legal strategy. No ally was beyond reach—even Eleanor Roosevelt was shortlisted as a potential trial witness in support of Van Waters as the appeal proceedings began to unfold.²⁴⁶ The Van Waters case would determine the future of women's penology in Massachusetts: either Van Waters would win her appeal and presumably return to rehabilitating women at the reformatory, or the reformatory would continue to transform into a women's prison.

The Birth of the Punitive Women's Prison

Elliott McDowell's twenty-seven charges targeted the tools and strategies Van

Waters used to interrupt the production of delinquency at the Massachusetts Reformatory for Women. Some charges amounted to clerical or technical infractions, which often implicated a former commissioner of correction's poor attention to detail. Other charges addressed moments when Van Waters broke the law, particularly when she used the indenture law beyond its domestic scope. By far, the most damaging charges alleged that Van Waters condoned homosexuality, implemented subversive rules, and jeopardized the reformatory's security. In an attempt to gather public support for Van Waters's removal, McDowell implied that the reformatory produced homosexuals under Van Waters's watch. When she failed "to segregate inmates with recorded homosexual tendencies from other inmates," McDowell alleged that Van Waters "failed to prevent" homosexuality at the reformatory."²⁴⁷ The rehabilitation of women offenders rapidly transformed into a dangerous project in light of each woman's perceived exposure to homosexuality. Many members of the public agreed with McDowell. In the words of one individual, the women left in Van Waters's care "may be received as women yet seldom leave as women."²⁴⁸

The attack Van Waters faced damaged her reputation and her reforms, but it annihilated the indenture program that "moral offenders" depended upon as a means of easing their transition between the institution and the community. The targeted destruction of indenture demonstrates the state's decision to denounce indenture's rehabilitative benefits in favor of parole, a far less successful method of release. According to one report comparing the differences between parole and indenture, between 31-44% of the reformatory's population was paroled each year between 1943 and 1947, compared to 6-15% of students who were indentured. Among the women paroled, only 58-71% maintained parole, meaning paroled women had, on average, a

35% chance of returning to the reformatory upon revocation of parole. Indenture was significantly more successful: 73-84% of indentured women maintained their positions, while an average of 21% of indentured women escaped from their positions.²⁴⁹ Despite the fact that escapees received an additional sentence, indenture was always more successful than parole in reintegrating women into the community. McDowell's crusade to destroy indenture can only be understood as a concerted, if not conscious, effort to transform the reformatory into a punitive prison that would maintain the production of delinquency within the carceral cycle.

McDowell could not claim that indenture was inferior to parole, but he could imply that Van Waters indentured potentially homosexual women. Equipped with the Dwyer Report—a document derived from months of state surveillance that Van Waters had never seen—McDowell villainized Van Waters for what she could not control: same sex-attraction within a same-sex institution. According to McDowell's logic, tolerating homosexuality fostered the creation of new homosexuals in the reformatory. In this sense, McDowell ironically accused Van Waters of *producing* delinquency through homosexuality, when in fact her penology concentrated on *inhibiting* the production of delinquency with sophisticated rehabilitative strategies. These accusations allowed McDowell to reinstate the carceral cycle as a system that prioritized the production of delinquency as a method of carceral control. Indeed, ending indenture and centralizing parole as a method of release would, in time, increase the rate of recidivism among women offenders.

Throughout the first three months of 1949, Van Waters fought for her reinstatement. Doing so included two tedious public hearings, where Van Waters

requested a trial to present evidence that might convince McDowell to reinstate her. McDowell ultimately upheld her removal, prompting Van Waters to appeal to Governor Dever. The governor appointed an impartial, three person committee to evaluate the case, and Van Waters won her reinstatement on March 11, 1949. She returned to Framingham, and for the remainder of her career, attempted to salvage as many of her reforms as possible. Despite her efforts, Van Waters quickly realized that it was impossible to reverse the damage initiated by McDowell. The twelve directives of June 1948 remained in effect, and indenture contracts were significantly limited. A once robust program that offered opportunities to 104 women at its height, rapidly fell to single digits in 1948.

The Van Waters case illuminates how the nation's most progressive reformatory transformed into a punitive women's prison. This story demonstrates how the carceral cycle uses prisons to generate delinquency so that, upon a prisoner's release, they are recognized as delinquent, subjected to state surveillance practices, and eventually returned to the prison. As a technology of social control, the carceral cycle always seeks to grow the prison population, which positions rehabilitation as its antithesis. Van Waters's capacity to disrupt the fabrication of delinquency compromised one angle of the carceral cycle, which led to an intensification of the reformatory's surveillance, and a redefinition of delinquency that fixated—almost exclusively—on homosexuality. Despite Van Waters's best efforts to facilitate a disciplinary regime that positively affected the lives of women offenders, the Department of Corrections' capacity to destroy indenture at the reformatory was the first step in transforming the Massachusetts Reformatory for Women into a distinctly punitive institution.

The Van Waters case study points to the way homophobia and sexism appealed to state authorities who wished to increase the use of punitive carceral strategies against women. As the homosexual woman transformed into the figure of the lesbianism, the state continued to wield homophobia as a means of criminalization in the following decades. In the face of explicit attack—for instance, in the form of gay and lesbian bar raids and police surveillance of cruising spots throughout the 1950s and 1960s—resistance against homophobia, criminalization, and police brutality emerged in the form of a gay and lesbian rights movement. Twenty-five years later, the carceral state would once again mobilize homophobia to target, surveil, and criminalize members of the lesbian and gay community who refused to help the state protect itself against a burgeoning lesbian feminist “threat.”

Notes

¹ Miriam Van Waters (hereafter “MVW”) diary, Nov. 9 1947, folder 220v, Papers of Anna Spicer-Gladding and Miriam Van Waters (hereafter ASG/MVW), 1885-1992. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge.

² A pseudonym is generally used to denote the student who died of suicide at the reformatory. Burton J. Rowles’ biography of Van Waters uses the name Toni Di Marco, while Estelle B. Freedman uses the name Terry Distafano in place of Antoinette DiBenedetto. While it is unclear why Rowles used a pseudonym, Freedman likely used one due to the restrictions regarding the use of prisoner names that are in place at the Schlesinger Library. Because Antoinette DiBenedetto’s name was widely published in Boston newspapers throughout 1947 and 1948, I have chosen to use her real name.

³ Burton J. Rowles, *The Lady at Box 99: The Story of Miriam Van Waters* (Greenwich, CT: The Seabury Press, 1962), 286.

⁴ “Foul Play Denied in Death Nov. 9 of Girl Prisoner,” *Daily Boston Globe*, Nov. 29, 1947.

⁵ Lisa Duggan, *Sapphic Slashers: Sex, Violence, and American Modernity* (Durham, NC: Duke University Press, 2001), 9.

⁶ “Foul Play Denied,” *Daily Boston Globe*, Nov. 29, 1947.

⁷ Ibid.

⁸ MVW diary, Dec. 27, 1947, folder 220v, ASG/MVW.

⁹ Ibid.

¹⁰ Tom Riley and James J. Delaney, “Dr. Van Waters Denies Fatal Sherborn Beating,” *Boston American*, May 8, 1948, folder 410v, Papers of Miriam Van Waters, 1861-1971 (hereafter MVW). Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge.

¹¹ Tom Riley and James J. Delaney, “‘Perilous Conditions’ At Sherborn Probed,” *Boston American*, May 20, 1948, folder 410v, MVW.

¹² Tom Riley and James J. Delaney, “Solon Charges Girl Slain at Sherborn,” *Boston American*, May 3, 1948, folder 410v, MVW.

¹³ Estelle B. Freedman, *Maternal Justice: Miriam Van Waters and the Female Reform Tradition* (Chicago: The University of Chicago Press, 1996): 272; Riley and Delaney, “Dr. Van Waters Denies Fatal Sherborn Beating,” *Boston American*.

¹⁴ Tom Riley and James J. Delaney, “Girl’s Jail Death Laid to Inmate ‘Pet,’” *Boston American*, May 10, 1948, folder 410v, MVW.

¹⁵ MVW to Francis G. Goodale, Jun. 7, 1948, folder 195, MVW.

¹⁶ Gertrude King, 1948, folder 40, in Records of the Friends of Framingham, 1948-1957, B-18. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, hereafter “Friends of Framingham.” A partial copy of King’s master’s thesis can be found in the University Records collection at Simmons University. The complete thesis cannot be located.

¹⁷ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1977): 289.

¹⁸ Eugenia C. Lekkerkerker, *Reformatories for Women in the United States* (Groningen, Holland: J. B. Wolters, 1931): 85.

- ¹⁹ Foucault, *Discipline and Punish*, 243; Lekkerkerker, *Reformatories for Women*, 207.
- ²⁰ Sandra Lee Bartky, "Foucault, Femininity and the modernization of *Patriarchal Power*" in *Writing on the Body: Female Embodiment and Feminist Theory*, ed. Katie Conboy, Nadia Medina, and Sarah Stanburg (New York: Columbia University Press, 1997): 129-154.
- ²¹ Tom Riley and James J. Delaney, "Sherborn Girls Find 'Loophole,' Get Out Quickly," *Boston American*, May 13, 1948, folder 410v, MVW.
- ²² Lekkerkerker, *Reformatories for Women*, 55.
- ²³ *Ibid.*, 60.
- ²⁴ Regina Kunzel, *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality* (Chicago: The University of Chicago Press, 2008): 17.
- ²⁵ *Ibid.*
- ²⁶ *Ibid.*, 18.
- ²⁷ Foucault, *Discipline and Punish*, 238.
- ²⁸ *Ibid.*, 239
- ²⁹ U.S. Const. amend. XIII, § 1.
- ³⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010): 28.
- ³¹ Mark Colvin, *Penitentiaries, Reformatories, and Chain Gangs: Social Theory and the History of Punishment in Nineteenth-Century America* (New York: Palgrave Macmillan, 2000): 201.
- ³² Sarah Haley, *No Mercy Here: Gender, Punishment and the Making of Jim Crow Modernity* (Chapel Hill: The University of North Carolina Press, 2016): 160.
- ³³ Alexander, *The New Jim Crow*, 31.
- ³⁴ Estelle B. Freedman, *Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930* (Ann Arbor: The University of Michigan Press, 1984): 15-16.
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- ³⁶ *Ibid.*, 23-34.
- ³⁷ Lekkerkerker, *Reformatories for Women*, 85.
- ³⁸ *Ibid.*, 89, 99.
- ³⁹ *Ibid.*, 85-86.
- ⁴⁰ Carolyn Eggleston, "Zebulon Brockway and Elmira Reformatory: A study of correctional/special education," (PhD diss., Virginia Commonwealth University, 1989): 98.
- ⁴¹ Lekkerkerker, *Reformatories for Women*, 86-88.
- ⁴² *Ibid.*, 92.
- ⁴³ Freedman, *Their Sisters' Keepers*, 46.
- ⁴⁴ *Ibid.*, 61.
- ⁴⁵ Nicole Hahn Rafter, *Partial Justice: Women in State Prisons 1800-1935* (Boston: Northeastern University Press, 1985): 16, 83, 91-92.
- ⁴⁶ *Ibid.*, 83, 92-94. On page 96, Rafter writes: "nearly every state maintained a custodial unit for women during the period 1870-1935, but in the Northeast and Midwest the type was not dominant: many more women were sent to reformatories. Except in Michigan, Missouri, and Vermont, custodial institutions in the Northeast and Midwest served a

safety valves to the reformatories, back-up units to which serious, older offenders were relegated.” See also Kali Nicole Gross, “African American Women, Mass Incarceration, and the Politics of Protection,” *The Journal of American History* 102, no. 1 (2015): 25-33.

⁴⁷ Barbara Brenzel, *Daughters of the State: A Social Portrait of the First Reform School for Girls in North America, 1856-1905* (Cambridge, MA: The MIT Press, 1983): 1.

⁴⁸ Lekkerkerker, *Reformatories for Women*, 98.

⁴⁹ Freedman, *Their Sisters’ Keepers*, 52.

⁵⁰ Lekkerkerker, *Reformatories for Women*, 98.

⁵¹ Louis N. Robinson, *Penology in the United States* (Philadelphia: The John C. Winston Company, 1921): 21.

⁵² Lekkerkerker, *Reformatories for Women*, 89.

⁵³ *Ibid.*, 93-94.

⁵⁴ *Ibid.*, 94.

⁵⁵ Mass. Gen. Laws ch. 221 § 1-5 (1880).

⁵⁶ Robinson, *Penology in the United States*, 128.

⁵⁷ Lekkerkerker, *Reformatories for Women*, 101.

⁵⁸ *Ibid.*

⁵⁹ Lekkerkerker, *Reformatories for Women*, 86.

⁶⁰ Foucault, *Discipline and Punish*, 181

⁶¹ Lekkerkerker, *Reformatories for Women*, 86.

⁶² *Ibid.*, 93.

⁶³ Foucault, *Discipline and Punish*, 184.

⁶⁴ Lekkerkerker, *Reformatories for Women*, 93.

⁶⁵ Foucault, *Discipline and Punish*, 201.

⁶⁶ Lekkerkerker, *Reformatories for Women*, 93.

⁶⁷ Foucault, *Discipline and Punish*, 206.

⁶⁸ Freedman, *Their Sisters’ Keepers*, 92.

⁶⁹ Lekkerkerker, *Reformatories for Women*, 95.

⁷⁰ Barbara Brenzel, “Lancaster Industrial School for Girls: A Social Portrait of a Nineteenth-Century Reform School for Girls,” *Feminist Studies* 3, no. 1/2 (1975): 42.

⁷¹ Freedman, *Their Sisters’ Keepers*, 92.

⁷² Jessie D. Hodder, “Indenture of Prisoners: An Experiment,” *Journal of the American Institute of Criminal Law and Criminology* 11, no. 1 (1920): 30.

⁷³ Sheldon and Eleanor T. Glueck, *Five Hundred Delinquent Women* (New York: Alfred A. Knopf, 1934): 328.

⁷⁴ Foucault, *Discipline and Punish*, 170.

⁷⁵ Lekkerkerker, *Reformatories for Women*, 96; Freedman, *Maternal Justice*, 186.

⁷⁶ Lekkerkerker, *Reformatories for Women*, 94, 96.

⁷⁷ *Ibid.*, 96.

⁷⁸ In 1910, Davis was appointed director of the Bureau of Social Hygiene, a body established at the recommendation of John D. Rockefeller. Through her work at the Bureau of Social Hygiene, Davis created a “Laboratory of Social Hygiene in connection with Bedford, to make studies of its inmates.” This laboratory allowed Davis to

incorporate psychiatrists and psychologists into the reformatory landscape. Although Davis left her post as superintendent of the reformatory in 1914, the laboratory allowed her to facilitate one of the largest surveys of women's sexual behavior that began in 1918, and was published in 1929. For more, see Margot Francis, "'For this girl was my grand passion': re-interpreting the first large scale survey of women's sexuality in America (1929)," *Canadian Woman Studies* 16, no. 2 (1996): 36-41.

⁷⁹ Lekkerkerker, *Reformatories for Women*, 97.

⁸⁰ Ibid.

⁸¹ Freedman, *Their Sister's Keeper*, 120.

⁸² James W. Trent, *Inventing the Feeble Mind: A History of Intellectual Disabilities in the United States* (New York: Oxford University Press, 2017): 196.

⁸³ Lekkerkerker, *Reformatories for Women*, 97.

⁸⁴ Hodder, "Indenture of Prisoners," 30.

⁸⁵ Freedman, *Maternal Justice*, 204.

⁸⁶ "Urges Parole Board Get Sole Authority," *Daily Boston Globe*, Sep. 29, 1937.

⁸⁷ Ibid.

⁸⁸ Freedman, *Maternal Justice*, 251.

⁸⁹ Ibid.

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⁹⁴ Ibid., 261.

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⁹⁹ Ibid.

¹⁰⁰ Foucault, *Discipline and Punish*, 283.

¹⁰¹ Ibid., 272, 289.

¹⁰² Freedman, *Maternal Justice*, 265, 267.

¹⁰³ "Women's Reformatory Canteen Fund Misused, Buckley Charges," *Daily Boston Globe*, May 18, 1947.

¹⁰⁴ Ibid.

¹⁰⁵ Freedman, *Maternal Justice*, 268.

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¹⁰⁷ Ibid.

¹⁰⁸ Freedman, *Maternal Justice*, 269, emphasis mine.

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- ¹¹⁰ Ibid.
- ¹¹¹ MVW, Correspondence, 1950. A-71, folder 194.
- ¹¹² John D’Emilio, "The Homosexual Menace: The Politics of Sexuality in Cold War America," in *Passion and Power: Sexuality in History*, ed. Kathy Peiss and Christina Simmons (Philadelphia: Temple University Press, 1989): 228.
- ¹¹³ Ibid.
- ¹¹⁴ David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: The University of Chicago Press, 2004): 33.
- ¹¹⁵ Ibid., 37.
- ¹¹⁶ Ibid., 21, 30.
- ¹¹⁷ Exec. Order No. 9835, 12 Fed. Reg. 1935 (Mar. 25, 1947).
- ¹¹⁸ Ibid.
- ¹¹⁹ Ibid.
- ¹²⁰ Johnson, *The Lavender Scare*, 7.
- ¹²¹ Ibid., emphasis added.
- ¹²² Ibid., 8, 21, emphasis added.
- ¹²³ Ibid., 8.
- ¹²⁴ Andrea Friedman, "The Smearing of Joe McCarthy: The Lavender Scare, Gossip, and Cold War Politics," *American Quarterly* 57, no. 4 (2005): 1106.
- ¹²⁵ D’Emilio, "The Homosexual Menace," 226-40.
- ¹²⁶ Naoko Shibusawa, "The Lavender Scare and Empire: Rethinking Cold War Antigay Politics," *Diplomatic History* 36, no. 4 (2012): 730.
- ¹²⁷ Ibid., 730, 732-33.
- ¹²⁸ Johnson, *The Lavender Scare*, 8-9.
- ¹²⁹ Kunzel, *Criminal Intimacy*, 47.
- ¹³⁰ Lillian Faderman, *Odd Girls and Twilight Lovers: A History of Lesbian Life in Twentieth-Century America* (New York: Columbia University Press, 2012): 46. See also Havelock Ellis, *Studies in the Psychology of Sex, Volume III* (Philadelphia, PA: F.A. Davis Company, 1913).
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- ¹³³ Kunzel, *Criminal Intimacy*, 53.
- ¹³⁴ Alfred Kinsey, Wardell B. Pomeroy, and Clyde Eugene Martin, *Sexual Behavior in the Human Male*, (Philadelphia: W.B. Saunders, 1948; Bloomington: Indiana University Press, 1975). Citations refer to the Indiana University Press edition.
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- ¹³⁷ Ibid.
- ¹³⁸ Ibid., 88.

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- ¹⁴⁰ Elliott McDowell to MVW, Jan. 7, 1949, folder 201, MVW.
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- ¹⁴³ Ibid.
- ¹⁴⁴ Dominique T. Chlup, “The Legacy of Miriam Van Waters: The Warden Who Would be Their Teacher First,” *The Journal of Correctional Education* 57, no. 2 (2006): 174.
- ¹⁴⁵ Cheryl D. Hicks, *Talk With You Like A Woman: African American Women, Justice, and Reform in New York, 1890-1935* (Chapel Hill: The University of North Carolina Press, 2010): 166.
- ¹⁴⁶ Such was the case at Bedford Hills, where women were segregated. See Rafter, *Partial Justice*, 153.
- ¹⁴⁷ Sarah Potter, “‘Undesirable Relations’: Same-Sex Relationships and the Meaning of Sexual Desire at a Women’s Reformatory during the Progressive Era,” *Feminist Studies* 30, no. 2 (2004): 398, 406.
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- ¹⁴⁹ Framingham Rorschachs, late 1948, folder 250, MVW.
- ¹⁵⁰ MVW to William H. Savin, Jun. 15, 1948, folder 195, MVW.
- ¹⁵¹ Peter Hegarty, “Homosexual Signs and Heterosexual Silences: Rorschach Research on Male Homosexuality from 1921 to 1969,” *Journal of the History of Sexuality* 12, no. 3 (2003): 408.
- ¹⁵² Ibid., 407.
- ¹⁵³ Allan Bérubé, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York: The Free Press, 1990): 166-167.
- ¹⁵⁴ Ibid.
- ¹⁵⁵ Freedman, *Maternal Justice*, 262.
- ¹⁵⁶ Rorschach psychiatric records, Sep. 24, 1948, folder 248, MVW. It is not clear if Van Waters’s request was a matter of everyday administrative proceedings, or if Van Waters requested these records in order to combat accusations of homosexuality. The note attached to the records contains language that suggests the latter.
- ¹⁵⁷ Ibid.
- ¹⁵⁸ Betty Young psychiatric reports, Feb. 21, 1949, folder 251, MVW.
- ¹⁵⁹ Ibid.
- ¹⁶⁰ Rorschach psychiatric records, Sep. 24, 1948, folder 248, MVW.
- ¹⁶¹ Ibid.
- ¹⁶² Ibid.
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- ¹⁶⁴ Ibid.
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- ¹⁶⁸ *Ibid.*, 191.
- ¹⁶⁹ Magnus Hirschfeld, *Sexual Anomalies: The Origins, Nature, and Treatment of Sexual Disorders* (New York: Emerson Books, 1948), xi-ixv, 191.
- ¹⁷⁰ *Ibid.*, 236, 240.
- ¹⁷¹ *Ibid.*, 238, 245, 191-2.
- ¹⁷² MVW essay, Sep. 15, 1948, folder 248, MVW.
- ¹⁷³ Johnson, *The Lavender Scare*, 91-96.
- ¹⁷⁴ *Ibid.*, 49.
- ¹⁷⁵ *Ibid.*, 152.
- ¹⁷⁶ Estelle B. Freedman, “‘The Burning of Letters Continues’: Elusive Identities and the Historical Construction of Sexuality,” *Journal of Women’s History* 9, no. 4 (1998): 185.
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- ¹⁸⁰ Jennifer Reed, “Queering Eleanor Roosevelt,” *The Journal of American Culture* 39, no. 1 (2016): 12.
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- ¹⁸⁷ MVW diary, Jan. 9, 1948, folder 220v, ASG/MVW.
- ¹⁸⁸ MVW diary, Jan. 8, 1948, folder 220v, ASG/MVW.
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- ¹⁹⁰ *Ibid.*, 253.
- ¹⁹¹ Katharine Sullivan, *Girls on Parole* (Westport, CT: Greenwood Press, 1956): 111, 116.
- ¹⁹² MVW diary, Jan. 19, 1948, folder 220v, ASG/MVW.
- ¹⁹³ *Ibid.*
- ¹⁹⁴ MVW diary, Feb. 28, 1948, folder 220v, ASG/MVW.
- ¹⁹⁵ *Ibid.*, Rowles, *The Lady at Box 99*, 293.
- ¹⁹⁶ MVW diary, Mar. 1, 1948, folder 220v, ASG/MVW.
- ¹⁹⁷ Rowles, *The Lady at Box 99*, 294.
- ¹⁹⁸ “Contacts with Commissioner McDowell,” after Nov. 30, 1948, folder 250, MVW.
- ¹⁹⁹ “Contacts with Commissioner McDowell,” after Nov. 30, 1948, folder 250, MVW; Rowles, *The Lady at Box 99*, 295.
- ²⁰⁰ “Contacts with Commissioner McDowell,” after Nov. 30, 1948, folder 250, MVW.
- ²⁰¹ Rowles, *The Lady at Box 99*, 296-297.

- 202 MVW diary, May 1, 1948, folder 220v, ASG/MVW.
- 203 MVW diary, May 3, 1948, folder 220v, ASG/MVW.
- 204 Freedman, *Maternal Justice*, 277.
- 205 MVW diary, Jun. 4, 1948, folder 220v, ASG/MVW.
- 206 MVW diary, May 5, 1948, folder 220v, ASG/MVW.
- 207 MVW diary, May 11, 1948, folder 220v, ASG/MVW.
- 208 MVW diary, May 13, 1948, folder 220v, ASG/MVW
- 209 Rowles, *The Lady at Box 99*, 298.
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- 213 MVW diary, Jun. 1, 1948, folder 220v, ASG/MVW.
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- 219 "Superintendent's Answers [to the Dwyer Report]," Jun. 1, 1948, folder 248, MVW.
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- 223 MVW diary, Jun. 16, 1948, folder 220v, ASG/MVW.
- 224 MVW diary, Jun. 2, 1948, folder 220v, ASG/MVW.
- 225 Freedman, *Maternal Justice*, 281.
- 226 Elliott E. McDowell to MVW, Jun. 4, 1948, folder 195, MVW.
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²⁴⁷ Elliott E. McDowell to MVW, Jan. 7, 1949, folder 201, MVW.

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CHAPTER 2. “We don’t talk about our sisters to the state”: FBI Surveillance, Abuse of the Federal Grand Jury, and Queer Resistance

An Evening with the FBI

On January 16, 1975, two FBI agents arrived at Sally Kundert’s doorstep, flashed their badges, and asked to enter her home. Kundert refused, explaining to the agents that she had “heard of people like you.” The agents responded: “We’ve heard of people like you too, Sally Kundert, and you’re wanted for murder. The house is surrounded.” Stunned by the FBI’s accusation, Kundert acquiesced, and the FBI entered her home. Indeed—the house was surrounded: the number of FBI agents swelled to four when two additional agents appeared from the back door. The lead agent began his interrogation with a terrifying statement: “We have had people verify that you are Kathy Power.”¹

It remains unclear to what extent the FBI actually believed that Sally Kundert was Katherine Power—a fugitive on the FBI’s ten most wanted list. Power, and her lover, Susan Saxe, were wanted for their involvement in several robberies that sought to protest the Vietnam War.² In collaboration with three men, Saxe and Power robbed banks and the National Guard Armory in Newburyport, Massachusetts in order to “buy explosives to melt down the wheels of trains that carried military weapons and to arm the Black Panthers.”³ The September 23, 1970 robbery of the State Street Bank Trust Co. in Brighton, Massachusetts, however, resulted in a death when one of Saxe and Power’s accomplices shot and killed a Boston police officer. In spite of an intense hunt, Saxe and Power proved impossible to apprehend when they went underground in 1970. The FBI’s first break in the case did not occur until years later, when the Cincinnati FBI received a tip indicating that Saxe and Power spent the summer of 1974 in Lexington, Kentucky.

The FBI suspected that Lexington's women's community—specifically the lesbian feminist community—sheltered Saxe and Power.

To the disappointment of many new friends, Saxe and Power (known in town as Lena Paley and May Kelly, respectively) left Lexington in the early autumn of 1974.⁴ Despite the fact the FBI should have known that Saxe and Power moved, they maintained the theory that Sally Kundert was an alias for Katherine Power. Kundert and Power shared a few things in common: both moved to Lexington in the early summer of 1974, and both grew acquainted with a group of radical lesbian feminists with whom they identified personally and politically. However, Kundert believed the FBI's accusation "was entire bullshit" because "the woman they wanted was three inches shorter than me, so it wouldn't have taken them very long to realize that I wasn't that person."⁵ Although Kundert convinced the FBI that she was not Katherine Power upon their first meeting, they continued to berate her with questions. Who were her parents? Where did they live? What political groups did she belong to? Despite being completely caught off guard by the FBI's visit—Kundert would later find out that she was the first to be visited by the FBI—she exercised her right to refuse to answer the FBI's questions. Kundert told the FBI that she "would give them any information about [her]self, but [she] wouldn't give them information about other people."⁶ Kundert's cooperation, however, mattered little: "whatever information I wouldn't give them, they gave to me."⁷ Whether or not the FBI actually intended to gain information from Kundert remains unclear, but what is clear is that the entirety of their visit was steeped in suspicion and intimidation. If nothing else, the FBI's visit alerted Kundert to the fact she was, and would continue to be, the subject of FBI surveillance.

The FBI's inability to locate Saxe and Power prompted the surveillance of what Pam Goldman calls the "spectrum of radicalism" in Lexington, Kentucky.⁸ Throughout the 1970s, Lexington's leftist community was predominately composed of "young, white, educated, middle-class people" that spanned several social movements including anti-war activists, a number of socialist organizations, labor organizing, the women's movement, and gay liberation.⁹ When the FBI descended upon Lexington, they would interview more than sixty radicals throughout January and February 1975. Their most intensive surveillance efforts, however, were directed at the group of lesbian feminists who opened their home to Saxe and Power. FBI agents blatantly followed these women, tapped their phone lines, and opened their mail. Apartments were searched without warrants and often in the absence of their occupants. The FBI's surveillance tactics were difficult, if not impossible to evade, but half a dozen individuals known as the "Lexington Six"—Jill Raymond, Marla Seymour, Gail Cohee, Deborah Hands, Linda Link, and J. Carey Junkin—refused to speak to the FBI. While the FBI primarily targeted the lesbian feminist community, Junkin, the student leader of the Gay Student's Coalition at the University of Kentucky, stood in solidarity with his lesbian sisters in refusing to cooperate with the FBI's investigation.¹⁰

The FBI's approach to Lexington paralleled the investigation of lesbian feminist communities in New Haven and Hartford, Connecticut. When Ellen Grusse and Terry Turgeon refused to cooperate with FBI, the Bureau threatened them with grand jury subpoenas. The FBI made good on their threat, but Grusse and Turgeon also stood firm in their commitment to noncooperation. Similarly, when the Lexington Six refused to cooperate with FBI interviews, the FBI turned to the U.S. Attorney General to secure

grand jury subpoenas. In the eyes of the FBI, the Lexington Six's resistance to interviews signified guilt, which only reinforced the need for subpoenas. The coercive nature of grand jury subpoenas deliberately pressured the Lexington Six as jail sentences figured into their decision to cooperate or be held in contempt. When the Six refused to cooperate as witnesses before the grand jury in February 1975, they were immediately granted use immunity—a pseudo-protection against prosecution that immunized an individual's grand jury *testimony*, but offered no immunization against future prosecution. While an individual's testimony could not be used against them, the state could use other testimonies to corroborate or otherwise gather evidence necessary for prosecution. Once immunized, acts of noncooperation would result in civil contempt charges and jail sentences that would remain in effect for up to eighteen months, the length of the grand jury term. Each member of the Lexington Six maintained control over the length of their sentence: at any moment, one could agree to “purge” themselves of contempt and gain their freedom by testifying before the grand jury.

Although the FBI's approach to lesbian feminist communities in New Haven, Hartford, and Lexington were similar, the theories driving the investigations shaped the ways in which FBI targets thwarted the FBI's efforts. In Lexington, the FBI's objective was to expose the alleged underground lesbian feminist network that sheltered fugitives. In this chapter, I turn to a collection of oral histories conducted by Pam Goldman throughout the late 1980s to delineate how the Lexington Six used queer resistance to combat FBI surveillance and the grand jury's legal violence. In deploying the word queer to describe the Lexington Six's tactics, I do not mean to eclipse or erase the historical specificity of lesbian feminism as a marker of identity and/or politics. Rather, I follow the

work of Cathy Cohen, who defines queer as a verb used by those who destabilize structures of power. In arguing that queer be oriented toward the intersectional nature of marginalization, Cohen gestured toward a queer theory that speaks to the “nonnormative and marginal position of punks, bulldaggers, and [so-called] welfare queens.”¹¹ In following Cohen’s call to contend with the ways homophobia intersects with systematic racism, classism, sexism, colonialism, and imperialism, I recognize queer resistance as action that aspires to protect multiply marginalized communities from state “regimes of immobilization.”¹²

Stephen Dillon argues that regimes of immobilization function as forms of state violence that “punish people who deviate from racialized, gendered, sexual, and classed social norms.”¹³ While prison is perhaps the most obvious form of immobilization, it is but one aspect of what Foucault describes as the carceral cycle, which the state depends on to discipline and punish so-called deviants. The cycle depends on the interlocking system of surveillance, criminalization, and incarceration to force individuals to acquiesce to state power. Thus, when faced with the decision to answer the state’s questions, or maintain one’s freedom, the state anticipated that Grusse, Turgeon, and the Lexington Six would relinquish their privacy before forgoing their freedom. In assuming that one would not risk their freedom if they had “nothing to hide,” the state deduced that only the guilty would choose to withhold information. The Lexington Six, however, deliberately withheld information that would be of little use to the FBI. They did not know, throughout the summer of 1974, that Lena Paley and May Kelly were fugitives wanted by the FBI, much less their whereabouts in early 1975.

In this chapter, I argue that what the state perceived as criminal collusion can also be read as queer resistance. In disrupting the state's use of surveillance and refusing to answer grand jury questions, the Lexington Six inverted the power hierarchies that attempted to exploit their difference as a group of "unruly" citizens. When, in the 1970s, agencies such as the FBI decided to count certain forms of resistance as "illegal, exceptional, violent, backward, irrational, and beyond politics," it did so in order to criminalize resisters and drain their support.¹⁴ In the case of the Lexington Six, the state sought to make an example out of young, white, middle-class, gay and lesbian feminist college students who chose to resist the state. Understanding the Lexington Six's resistance as queer resistance illuminates the relationship between state surveillance and the criminal justice system. Just as FBI surveillance cast a shadow of delinquency over the surveilled, the grand jury worked as an apparatus for legal violence that prohibited individuals from establishing their innocence. When six individuals who were guilty of no *criminal* acts went to jail, the Lexington Six illuminated the state's criminalization of non-cooperation. Even when equipped with white, middle-class privilege and legal representation from one of Kentucky's premier civil liberties attorneys, there was no way for the Lexington Six to emerge from the grand jury unscathed.

This chapter unfolds chronologically. The first section outlines the circumstances that led Susan Saxe and Katherine Power to live underground in Lexington throughout the summer of 1974. I detail the FBI's descent upon the lesbian feminist community, and discuss how the FBI harassed even cooperative individuals. The second section explains how the FBI surveilled, harassed, and intimidated members of Lexington's leftist community. I detail acts of sousveillance that undermined the efficacy of FBI

surveillance by letting the government know that their targets were watching back. By acknowledging the FBI's presence, actively resisting their surveillance, and refusing to cooperate with FBI interviews, the Lexington Six, among others, disrupted the FBI's surveillance efforts. The third section examines feminist reactions to FBI harassment in the hunt for Saxe and Power. While the lesbian feminist community expressed much concern over the safety and security of lesbians, some feminists, and even some lesbian feminists, denounced Saxe and Power, and furthermore rejected the Lexington Six's noncooperation as a viable political strategy. I explain the logic of this position by comparing Jane Alpert's 1974 self-surrender to the arrest of Saxe to contextualize the significance—and controversy—of the Lexington Six's resistance.

The fourth section explains how the FBI procured grand jury subpoenas that sought to extract information about the witnesses' sexual identity, political affiliations, and possible connections to other progressive political groups. I emphasize how, when faced with resistance, the state used the criminal justice system to squeeze information from its subjects, particularly those who were vulnerable to homophobic attacks. The final section concerns the Lexington Six's commitment to collective defense—a term developed by Emily Hobson that characterizes the act of choosing against oneself in the name of collective solidarity. In light of many claims that the Lexington Six's decision to go to jail simply was not worth it, this section highlights the payoffs of queer resistance. In particular, I explain how queer resistance helped protect not just the lesbian feminist community, but other marginalized communities who were similarly vulnerable to the state's immobilization and grand jury abuse.

The Search for Susan Saxe and Katherine Power

The shooting, and subsequent death of Officer Walter A. Schroeder initiated an intense hunt for Saxe, Power, and their three male accomplices in the aftermath of the State Street Bank and Trust Co. robbery. Police immediately apprehended Robert Valeri, but the man who shot Schroeder, Robert Gilday, as well as Stanley Bond, Saxe, and Power remained at large. By the end of September, law enforcement detained Gilday and Bond, but they remained unable to locate the women.¹⁵ Clothing discovered in a locker at the Boston airport indicated that Power fled to Los Angeles in the aftermath of the robbery.¹⁶ Though Gilday was solely responsible for firing more than 25 shots at Schroeder, the entire group would be charged with felony murder due to the fact Schroeder's death coincided with the robbery.¹⁷ Considered by the FBI to be "armed 'and very dangerous,'" in light of the other robberies they facilitated, Saxe and Power secured spots on the FBI's ten most wanted list on October 17, 1970.¹⁸

According to the FBI, Saxe and Power were "members of a 'small, revolutionary-type organization which, in addition to attacking military and police forces, reportedly advocated violent attacks against established society and robberies to further aims and provide financial contributions to such organizations as the Black Panther Party.'"¹⁹ The FBI's information was accurate: Saxe and Power were radicalized as students at Brandeis University, and were actively involved in the Women's Liberation movement, as well as the National Student Strike Information Center at Brandeis.²⁰ Although Saxe and Power were not explicitly affiliated with other revolutionary women wanted by the FBI, their names were often mentioned in the same breath as Bernardine Rae Dohrn, a leader in the Weather Underground Organization, and Angela Davis, a member of the Communist

Party USA and Black Panther Party, as well as ex-Panther turned Black Liberation Army leader, Assata Shakur.²¹

Despite the FBI's best efforts, Saxe and Power could not be found. The young women's parents remained equally mystified by their daughters' disappearance: "It's as though she dropped off the face of the earth," remarked Power's father.²² Citing the FBI's inability to locate Saxe and Power, Richard Connolly of the *Boston Globe* suggested that "hunted women [could] hide more easily" because "in crime, the female of the species is more cunning than the male."²³ While Saxe and Power's success was, to some degree, contingent on their ability to alter their physical appearance, they remained hidden because they cut off all ties to family and friends. Life underground did not, however, preclude Saxe and Power from political engagement. On April 15, 1971, the first official communication from Saxe and Power appeared in *off our backs*, a newly formed radical feminist newspaper. In an address to Bernadine Rae Dohrn, Saxe and Power described their circumstances: "People must realize that . . . going underground does not imply political or cultural death. True, we live with a certain amount of fear (who doesn't?) and have to be very careful about being busted, but we see this as just another aspect of our revolutionary duty . . . in short, we are alive and well."²⁴

In the summer of 1974, Saxe and Power arrived in Lexington, Kentucky. Although they initially claimed to only be visiting Lexington for a few days, the couple extended their stay, probably because they "blended easily into the [leftist] community around the University of Kentucky."²⁵ As self-identified lesbian feminists, Saxe and Power befriended Marla Seymour and Gail Cohee, who introduced them to other lesbian feminists, radicals, and socialists in the Lexington community. Saxe took a job at Alfalfa,

a new health food restaurant near the University of Kentucky campus, and built a reputation as a “skilled and innovative cook . . . known for her discourse on politics and food,” while Kathy took a more innocuous job as a secretary.²⁶ Saxe and Power did not explicitly take on leadership roles within the leftist community, but they surrounded themselves with politically active lesbian feminists, and lived with Seymour, Cohee, and Linda Link. According to Letty Ritter, who, thanks to her roommates, inadvertently lived with Saxe and Power, the couple was “militant” and “always ready to take on a new cause.”²⁷ Indeed, Lexington’s vibrant leftist community afforded Saxe and Power a multitude of opportunities to engage with and inspire action. However, by the fall of 1974, Saxe and Power realized that they had “stayed too long in one place.”²⁸ As historian Pam Goldman notes, their departure was particularly difficult to understand because Saxe and Power refused to provide their Lexington friends with a forwarding address. Saxe espoused the belief that “friendship was forever, [but] it did not require continuity or communication.”²⁹

There are competing accounts detailing who initially realized that Lena and May were, in fact, Susan Saxe and Katherine Power. However, the overall circumstance under which this discovery was made remains congruent. In the early fall of 1974, Ritter accompanied her friends, Leslie Ott and Nancy Campisano, on an errand at a Lexington post office. While at the post office, the trio flipped through the FBI Most Wanted posters, and laughed when they recognized May after glancing at Katherine Power’s most wanted flyer: “Ain’t it funny how our imagination could get carried away, to think that that looked like May?”³⁰ When they turned to the next the page and saw Lena’s face, they realized that their recognition was not a coincidence: Lena and May were actually Susan

and Katherine. Despite the fact the FBI Most Wanted poster emphasized that Saxe and Power were wanted for murder, Ritter, Ott and Campisano decided not to report to the FBI. According to Ritter, the three women were worried about jeopardizing their own security: “we decided it’d be crazy to have the cops come around, since we had . . . drugs on . . . the premises” of their home.³¹ Ritter, Ott, and Campisano’s reluctance to report their discovery speaks to their inability to trust the state: helping the FBI did not exempt them from being criminalized on account of their drug use. As such, the three women discussed their discovery with roommates and friends, but did not turn to the police or the FBI for fear of the surveillance such a report would initiate.

Sue Ann Salmon, a woman who maintained close ties to the Alfalfa community, remembered the discovery of Saxe and Power differently. According to Salmon, Barry Bleach, one of the co-founders of Alfalfa, was at a Lexington post office for a film shoot. He happened to be “thumbing through the FBI Most Wanted list. . . and saw Lena. . . and her friend May.”³² While Salmon could not account for the way Ritter came to discover Lena and May’s identity, she remembered that it was not Bleach, but Ritter, who notified the FBI. In contrast, Ritter maintained that one of her friends, Steve Wood, notified the FBI. Wood had recently moved to Covington, Kentucky, and as Ritter suspects, wanted to report to the Cincinnati FBI in order to collect the reward money.³³ While inconsistencies remain in these stories—for instance, some remember that Ritter and her boyfriend reported to the FBI—it seems that the reporter did not fear how they might be implicated in the FBI’s immediate action.³⁴

When the FBI arrived in Lexington, they were greeted with both uncooperative and cooperative women in the lesbian community. Ritter’s personal bias against Lena and

May, in part, contributed to her willingness to cooperate with the FBI. Ritter resented Lena and May for several reasons. For one, Lena and May were “down on drug use,” and Ritter especially disliked Lena’s bossiness. Ritter’s search for more information about Saxe and Power also influenced her impression of the fugitives. When Ritter found out that Lena and May were, in fact, Saxe and Power, Ritter could only find more information about the pair when she searched under “murderer” at the library. Although Saxe and Power did not kill Walter Schroeder, the library’s catalogue resonated with Ritter. While Ritter’s roommates refused to interact with the FBI, therefore risking further consequences that included jail time, Ritter chose to cooperate because she “couldn’t justify going to jail for [Lena and May].”³⁵

Despite the fact that Ritter cooperated with the FBI, agents capitalized on Ritter’s drug use to threaten her into maintaining an open line of communication. Ritter’s drug use offered the FBI leverage in two ways. One reason, Ritter suggests, that she cooperated with the FBI had to do with the fact she was “stoned out of [her] head all the time and. . . just talked to them.” Even when the FBI pursued lines of questioning that had nothing to do with Saxe and Power, Ritter talked: “I look back on it now, and I think there were a lot of things that they asked that didn't have to do with Lena and May, and so, it wasn't really any of their business. But I think I was so scared of getting busted that I thought I should give him full cooperation.” Knowing that the FBI could retaliate and arrest her for drug use at any point, Ritter felt compelled to cooperate, even when the FBI overwhelmed her with visits. Soon, Ritter resented the fact that the FBI “came every day. They expected you to take time to sit down and talk to them.”³⁶ From the FBI’s perspective, Ritter was a perfect target. Her paranoia, resentment toward Lena and May,

and heavy drug use allowed them to blur the line between coerced and cooperative communication.

Unlike Ritter, many women who knew Saxe and Power as Lena and May refused to answer the FBI's questions. Contrary to the FBI's belief that Lexington's lesbian feminists were operating an underground sanctuary for fugitives, no one suspected that Lena and May were fugitives, much less Saxe and Power. In hindsight, Saxe and Power engaged in a number of idiosyncratic behaviors that could have alerted discerning individuals to the fact they were living underground. In addition to being critical of household drug use, Saxe and Power avoided any encounter with law enforcement. Ritter recalls that they were outraged when, after attempting to apply for work at a Lexington mall, they learned that their prospective employers wanted to fingerprint them. Ritter remembers that Lena and May "were ready to march against that. They thought [fingerprinting] was wrong."³⁷ Even Saxe's dyed red hair, as Goldman points out, garnered no reaction from the Lexington women, despite the fact it was "a great incongruity for someone who espoused radical feminist politics" that generally deplored cosmetic capitulation to patriarchal beauty standards.³⁸ While it is clear that Saxe and Power's political critiques corresponded to a politics of self-preservation, no one challenged their stance. No one in Lexington knew who they were.

Surveillance and Sousveillance

By the autumn of 1974, members of the New Left were keenly aware of FBI's reach, especially in the years after the FBI's COINTELPRO program was exposed in 1971 and the Watergate scandal broke. For more than two decades, COINTELPRO—short for Counter Intelligence Program—engaged in a number of illegal acts meant to

thwart dissenting political activists, including the murder of black activists and the wider surveillance of the New Left.³⁹ The Watergate scandal similarly alerted the public to the government's surveillance of U.S. citizens. The Watergate robbery was put into sharp relief when, in 1973, one year after Nixon's reelection, Alexander P. Butterfield's revealed to the Senate Watergate Committee that Nixon recorded conversations in the Oval Office, cabinet room, executive office, and on his personal telephone.⁴⁰ If nothing else, Watergate demonstrated that wiretapping and bugging were surveillance methods used by the government that were almost always undetectable.

On the heels of the Watergate and COINTELPRO, Americans contended with the fact that the government may use new technologies to surveil them. Domestic surveillance was always situated in the interest of national security: only Americans perceived as threats were surveilled in an attempt to thwart political dissonance. Despite increasing awareness of the government's surveillance methods, knowledge of the FBI's surveillance capabilities did not necessarily prepare Lexingtonians for the experience of being watched. The physical presence of the FBI was especially new for the youngest members of the New Left, many of whom, in 1974, were matriculating through the University of Kentucky. Such was the case for Sally Kundert. When the FBI appeared at Kundert's doorstep, she "didn't know a damn thing about [her] rights."⁴¹ In fact, Kundert was "a little pissed" that she had not been warned that the FBI was in town, only to learn she was the first person visited by the FBI in the search for Saxe and Power.⁴² Kundert's experience suggests that the FBI meant to scare her into cooperation, which, at least to some extent, indicated that they believed Kundert was ill informed about her rights.

The FBI's surveillance actions in Lexington were, in many ways, extensions of COINTELPRO actions that targeted New Left groups. As David Cunningham argues, the FBI's attempts to repress the New Left consisted of the following goals: create a negative public image, break down internal organization, create dissent among groups, restrict access to group-level resources, restrict the ability to protest, hinder the ability of individual targets to participate in group activities, displace conflict, and gather intelligence.⁴³ Many of these goals were accomplished by harassing targets. For example, FBI agents blatantly followed their targets in Lexington, which allowed the FBI to gather intelligence and promote criminalization by creating a negative public image and limiting individual movement. Kundert recalls just how persistent the FBI was: "when we would try to go to a restaurant, people in suits and ties, men, [would] just come and sit right next to you at the table. You[']d get up and go someplace [else], and they'd show up again."⁴⁴ The inescapability of the FBI thus contributed to a target's experience of isolation. Many people deliberately avoided friends who became FBI targets for fear of becoming a target by association.⁴⁵ This was particularly true for J. Carey Junkin, who was followed by FBI agents on the University's campus. "Most of my friends," Junkin recalls, "would not get near me."⁴⁶

The FBI's deliberate use of physical surveillance tactics transformed what Jeremy Bentham described as the panoptic into what Foucault describes as panopticism. Bentham's theory of the panopticon positioned the "illusion of constant surveillance" as the drive of self-discipline, insofar as subjects became motivated to behave in a particular way because someone *might* be watching.⁴⁷ If COINTELPRO and Watergate established the government's ability to deploy covert methods of surveillance, physical surveillance

transformed the illusion of constant surveillance into a reality. Foucault's theory of panopticism, therefore, points to "*continuous* individual supervision" as a form of state power and control.⁴⁸ In an era where FBI surveillance was often undetectable, physical surveillance replaced the question of surveillance with the certainty of surveillance. Targets need not wonder *if* they were being surveilled, but *how* they were being surveilled. However, instead of internalizing the panoptic impulse to self-discipline, the Lexington Six upended the expectation of self-monitoring by choosing to watch back.

Ironically, the FBI's visibility allowed the Lexington Six to resist surveillance by engaging in *sousveillance*. *Sousveillance*, theorized by Steve Mann, operates as a "mode of monitoring in which citizens watch governing bodies from below, as an opposing concept to *surveillance*—watching over or from above."⁴⁹ As a "direct action" that empowers the surveilled to "watch back at those who watch us," *sousveillance* empowered Lexington's radical community to disrupt the FBI's efforts.⁵⁰ For example, *sousveillance* succeeded when it convinced the FBI that physically monitoring certain groups was an entirely fruitless effort. Junkin, in particular, used *sousveillance* to this end. As part of their physical surveillance of Junkin, FBI attended meetings of the Gay Student's Coalition at the University of Kentucky. In an effort to resist the FBI's presence, the group would "sit in dead silence or adjourn the meeting. So [the FBI] quit doing it."⁵¹ The benefits of physical surveillance allowed Junkin to devise a plan for resistance that honed in on the FBI's discomfort with a reversal in hierarchy, in which targets watch back. While Junkin's ability to thwart physical surveillance was probably the exception as opposed to the rule, *sousveillance* worked as a promising form of resistance to FBI surveillance and harassment.

Despite the fact leftists found ways to interfere with FBI surveillance, the FBI continued to use alarmingly obvious surveillance strategies. As Junkin recalls,

They weren't even a little subtle. I mean, 35 year old men in suits wandering around UK in '75 was probably a real big tip off and it was real obvious they were following me. Because a man would go—would walk me to class—and then I'd come out of class and he'd be sitting there, like in the old Classroom Building. And [it was] just real obvious. . . . Even the most committed fraternity Republicans did not wear three piece suits.⁵²

Cunningham's analysis of FBI surveillance helps explain why the FBI would deliberately announce their presence and make themselves vulnerable to sousveillance. "Such overt signs of surveillance," according to Cunningham, "could be the product of sloppy intelligence gathering, but more likely many of these actions were purposeful, serving to harass their targets."⁵³ Cunningham's theory explains the FBI's seemingly careless behavior: FBI surveillance functioned to gather intelligence *and* harass, intimidate, and terrify the surveilled. While, in the presence of the FBI, targets could find ways to resist, the absence of FBI signaled a transition to invisible surveillance tactics that often instilled a sense of hypervigilance among the surveilled.

Invisible surveillance tactics were almost impossible to detect, and difficult to resist. For example, Kundert suspected her phone was tapped after making a call to a new acquaintance named Becky. Kundert withheld her last name during the call, but Becky received a visit from the FBI the following day. They warned Becky to "watch out" when choosing to get involved with a new group.⁵⁴ Although Kundert was not certain her phone was tapped, she suspected the FBI's visit to Becky was not a coincidence.

While resistance, in the face of wire taping and phone surveillance, was not impossible, it was inconvenient: those who suspected their phones might be tapped could simply stop using them. However, the number of precautions one might feel compelled to take could easily immobilize a person. The uncertainty of invisible surveillance—the knowledge that one was being watched, but the question of *how* one was being watched—forced many to exist in a constant state of vigilance.

In addition to visible and invisible forms of surveillance, FBI targets in Lexington were subjected to a number of illegal surveillance tactics. For instance, while the legality of wiretapping remained in flux in 1974 and 1975, the FBI actively participated in illegal acts when necessary, including unauthorized taps, illegal searches, and forced entry. On several occasions, Kundert recalled returning to her apartment, only to find her front door left open. Upon discovering that nothing was missing, it became clear that her apartment had been searched as opposed to burglarized. Perhaps the most bizarre search occurred with her landlord's consent:

. . . one time three men came—I opened the door, and three men came in. . . and they were dressed really straight, and they started going through the room and looking in closets, and saying—and the landlord was with them—and they said ‘well, we're just thinking about renting this place.’ I don't even remember if I said I was leaving at the time. I just remember thinking it's really weird that these three guys rushed in and started looking through the closets.⁵⁵

Kundert's recollection of this event stops short of identifying the “prospective tenants” as FBI, but their appearance and odd behavior suggests that Kundert recognized that the

men were likely agents. Given that Kundert lived in the apartment that Saxe and Power formerly inhabited, the interest in routinely searching her apartment suggests the FBI believed that Saxe and Power were either hiding with Kundert, or that Kundert possessed information about their whereabouts. That these visits took place with the consent of Kundert's landlord suggests that Kundert experienced a perpetual—and illegal—invasion of privacy.

Significantly, the FBI's search for Saxe and Power did not appear to depend on undercover agents or informants, probably because there was little to no time to recruit and/or integrate informants as the hunt for Saxe and Power ensued. However, this did not keep members of New Left groups from suspecting new faces were working for the FBI. For example, Salmon remembers that when a new woman appeared at a women's center meeting wearing "a trench coat and lots of makeup," she automatically suspected that the woman might be an FBI agent.⁵⁶ When the new woman volunteered to retype the group's mailing list, Salmon withheld her concern about potential FBI infiltration because she believed "it would be really bad to accuse this woman of being an FBI agent, if in fact she's not. And this is her first women's center meeting. She's trying to make a big change in her life, and I surely wouldn't like somebody to accuse me of that, you know, at that point in my life."⁵⁷ In the end, the woman left with the mailing lists, never to be seen again. Although Salmon did not follow up on her suspicion, her fear demonstrates how easily a feminist commitment to inclusivity could conflict with hypervigilance. In this case, Salmon's empathy and inclusivity prevailed with little (known) repercussions. However, the woman's presence triggered a response within Salmon, and perhaps other

members of the group, that could have created dissention or led to a break down in the group's organization.

Many individuals in Lexington actively resisted the FBI, but the FBI's relentless investigation and surveillance tactics still wreaked havoc on the lives of those believed to be associated with Saxe and Power. FBI agents sought information from their targets' employers, which often led the employer to suspect their employee of wrongdoing. For example, the FBI contacted Sally Kundert's co-workers in an attempt to establish whether or not she bore any resemblance to Katherine Power. On one occasion, Kundert believed she might have been fired because she suspected the FBI had contacted her employer in an attempt to gather more information— not because she was guilty, but because of her association. The most damning tactic the FBI deployed involved outing gay and lesbian individuals who refused to cooperate with their investigation. For example, the FBI told Jill Raymond's grandmother that she was a lesbian with the hope that family members would pressure Raymond to cooperate.⁵⁸ While this tactic did not, in fact, convince Raymond to cooperate, it is clear that the FBI outed people as a form of punishment. At a time where homophobia remained acute, the FBI placed gay and lesbian lives in severe danger in the name of intelligence.

The families of the investigated were seldom sympathetic to their children and the harassment they experienced. Kundert recalls that her father justified FBI harassment by choosing to believe that “where there's smoke there's fire; they wouldn't be there if there wasn't something wrong.”⁵⁹ For Kundert's father, the guilt or innocence of the surveilled was irrelevant—the FBI's presence alone had the power to convince some parents that their children were guilty of something. The FBI's ability to exploit noncooperation cast

a shadow of guilt upon innocent people. While cooperation was the only way to establish and preserve one's innocence, this proved even more difficult for the lesbian feminist community who, on account of their sexuality, were always already perceived by the state as criminals.

Framing Queer Resistance

As the FBI pursued Saxe and Power, outrage over the harassment of lesbian feminist communities resonated in papers like *Gay Community News (GCN)*. One 1975 editorial captured the community's anxiety. In acknowledging the FBI's surveillance tactics, including wiretaps, "degrading personal interrogations," and grand jury subpoenas, Skip Rosenthal asked:

Is any Lesbian-Feminist safe from this harassment? . . . How far is it going? Where is it going to stop? How long will we tolerate these infringements of our civil rights? We know that, in the past, the F.B.I. has compiled "files" on radical groups. How fat are the dossiers becoming on Lesbian-Feminists under the guise of locating Kathy Power and Susan Saxe?⁶⁰

Rosenthal's critique underscored how the FBI's hunt for Saxe and Power jeopardized the safety and security of the lesbian feminist community and the gay liberation movement. Rosenthal feared that the FBI would neutralize the gay rights movement, just as it had attempted to neutralize Black nationalists, socialists, feminists, and other political dissidents.⁶¹ The rhetoric of Rosenthal's outcry—"What the Hell's going on here?!"—

urged the gay community, in particular the lesbian feminist community, to do something to end FBI harassment.⁶²

Across the country, a united campaign to end the FBI's harassment of the gay community could have united lesbian feminists, but feminists of all types did not universally support FBI resistance. At this time, resisting the FBI was linked to the question of supporting women who went underground, many of whom did as a result of participating in violent revolutionary acts. As such, FBI resistance remained entangled within ongoing debates concerning collaboration, both with the state and with men in other social movements. These debates came to the fore two months before the FBI arrived in Lexington when Jane Alpert, "the contrite ex-radical," turned herself in on November 14, 1974.⁶³ Beginning in July 1969, Alpert joined Pat Swinton, David Hughey, and Sam Melville in bombing "military and war-related corporate buildings in Manhattan."⁶⁴ The FBI apprehended the four on November 12, 1969, but Alpert skipped bail the following May and disappeared underground.

Alpert's status as a fugitive did not prevent her from publishing two controversial pieces in which she renounced the New Left in the name of feminism. "Mother right: a new feminist theory" appeared in the May 31, 1973 issue of *off our backs*, and offered early articulations of cultural feminism. In this piece, Alpert stressed the "immense significance" of biology, in particular, motherhood—"a potential which is imprinted in the genes of every woman."⁶⁵ Alpert's interest in crafting a matriarchal culture was, as Alice Echols notes, a "profoundly individualistic and far removed from the collectivist impulse that informed radical feminism."⁶⁶ Not only was Alpert's theory steeped in biological essentialism, she overlooked the experiences of multiply marginalized women

in order to argue that motherhood “cuts across economic class, race, and sexual preference.”⁶⁷ While “mother right” proved to be controversial on its own, Alpert received even more pushback three months later when she published an open letter criticizing the women of the Weather Underground Organization.

“Jane Alpert on Feminism” appeared in *off our backs* on August 31, 1973. This piece not only disavowed the New Left, it critiqued the Weather women, who, from Alpert’s perspective, remained politically aligned with men. In distinguishing herself from the Weather fugitives—claiming she was “half-led, half dragged” into Sam Melville’s group of radical bombers—Alpert renounced her leftist politics in favor of radical feminism and criticized Weather women for failing to do the same. Alpert struck down an ultimatum: “As long as you are working politically with men, as long as you are letting men define your attitudes, behavior, and standards, then we stand on opposite sides of the line, a line that exists in spite of your blindness to it, but which I know you too will see once you have crossed it.”⁶⁸ Alpert’s remarks deepened divisions among feminists because she demanded that the movement prioritize the fight against patriarchy above all else. For multiply marginalized feminists, who continued to confront poverty, racism, and homophobia, working with men was a vital component of movement building. The struggle for prisoner’s rights, for example, was a crucial issue, especially in the aftermath of the massacre at Attica prison in the fall of 1971. If the Weather women maintained that “Attica is the heart beat of our struggle,” Alpert took the exact opposite position.⁶⁹ Despite the fact Melville died in the riots—a man with whom she was romantically involved—Alpert boldly proclaimed that she would “mourn the loss of 42 male supremacists no longer.”⁷⁰

Many feminists championed Alpert's position, while others recognized that her letter to Weather betrayed the underground's safety and security. Though several months passed before Weather women published their response in *off our backs*, the statement that appeared in the spring of 1975 positioned Alpert as a collaborator—someone who agreed to “cooperate with the state to reveal any information about the progressive and revolutionary struggles of the people or about the people themselves.”⁷¹ Not only did Alpert's 1973 letter reveal sensitive information of use to the FBI, she continued to cooperate with the state after her surrender.⁷² For example, many suspected that Alpert led the state to locate and arrest Pat Swinton, who escaped from custody in 1969.⁷³ Alpert's supporters justified her willingness to collaborate with the state by claiming that “the entire issue [of collaboration] is irrelevant since both the established authorities and the male left are oppressive to women,” but Weather women refused to accept the claim that the state and the male left presented “a choice between oppressors.”⁷⁴ For Weather, and many other radical feminists, revolting against the state and destroying its apparatuses of power and control was of utmost importance. Replacing patriarchy with matriarchy would only flip the script.

The debate sparked by Alpert influenced a range of feminist responses to the FBI's harassment of lesbian feminists in New Haven and Lexington, and the subsequent arrest of Susan Saxe on March 27, 1975.⁷⁵ Campaigns to end FBI harassment of the gay community united lesbian feminists across the nation, but whether or not one supported these efforts was often determined by one's stance on Saxe and Power. Unlike Alpert, Saxe did not apologize for her radical actions. Instead, she promised to “fight on in every way as a lesbian, a feminist, and an Amazon.”⁷⁶ In naming these groups, Saxe situated

her politics in the middle of radical feminism, lesbian feminism, and lesbian/Amazon nationalism, all of which distinguished her from Alpert's politics. Many of Saxe's supporters emphasized that she was the state's scapegoat—the American government, and its capitalistic institutions were, in fact, the real criminals. Others admired her openly lesbian identification, remarking upon Saxe's "courage and determination and her ability in the midst of this chaos to be an up-front lesbian-feminist."⁷⁷

Saxe appealed to many feminists by establishing herself as a symbol of lesbian feminist resistance. Others, however, viewed her as co-opting lesbianism, and refused to condone her stance on violence or her willingness to collaborate with men. In a letter to *GCN*, one reader argued that "to idealize [Saxe] as a feminist/lesbian revolutionary hero is not only insane but counter-productive to what a lot of lesbians are trying to accomplish and achieve in this society utilizing 'other weapons.'"⁷⁸ Though the debate over Saxe's violent actions offered another iteration of a longstanding debate on the merits of violence, Saxe's critics stressed the importance of distinguishing Leftist and radical feminist sentiments that condoned violence and state opposition from lesbian feminism. For example, Jill Johnston, author of *Lesbian Nation*, emphasized that the 1970 Boston bank robbery that led Saxe to go underground was not a lesbian feminist action, but an anti-war and anti-imperialist action. For Saxe to ground her politics in lesbian feminism at the time of her arrest in 1975 not only misrepresented the political ideologies that led her to action in 1970, it misrepresented lesbian feminists as violent criminals. In effect, Johnston's 1975 *Village Voice* article urged Saxe to shut up—the lesbian feminist community did not deserve to be brought in to her mess.

In “The Myth of Bonnies Without Clydes,” Johnston blamed Saxe for bringing “down a wave of harassment and overt repression on lesbian and feminist communities around the country.”⁷⁹ But rather than argue that Saxe and Power should have turned themselves in to the FBI in lieu of going underground, Johnston deployed a more passive aggressive attack by calling state resistance “conventional.”⁸⁰ In raising the question of what lesbian feminist resistance should look like, Johnston elevated the political superiority of lesbian feminism. As a proponent of lesbian separatism, Johnston believed that lesbians should exist apart from men, heterosexual women, and all patriarchal institutions. As Echols summarizes, “true rebels” did not resist, they “transcended patriarchy.”⁸¹ While Johnston’s critique of Saxe did not outright suggest that Saxe should cooperate with authorities, her critique of noncooperation insulted the women in New Haven and Lexington who were unable to transcend the FBI’s surveillance and harassment.

Although Johnston acknowledged that “if it weren’t Saxe, it would have been someone else,” Saxe supporters refused to accept that Saxe’s arrest alone brought collateral damage upon the lesbian feminist community.⁸² Supporters countered Johnston by emphasizing that Saxe could not be held responsible for the FBI’s actions. Writing in *GCN*, Jill Raymond insisted that Saxe and Power could not predict how the government would react to their disappearance: “. . . no matter what our decisions—no matter how thoughtful, how off-the-wall, how militant, or how passive, we will [have] had no more control over who they were going to come after or who they might leave alone that we do today. The government operates on its own terms, always.”⁸³ Raymond’s response emphasized the importance of holding the government accountable for the government’s

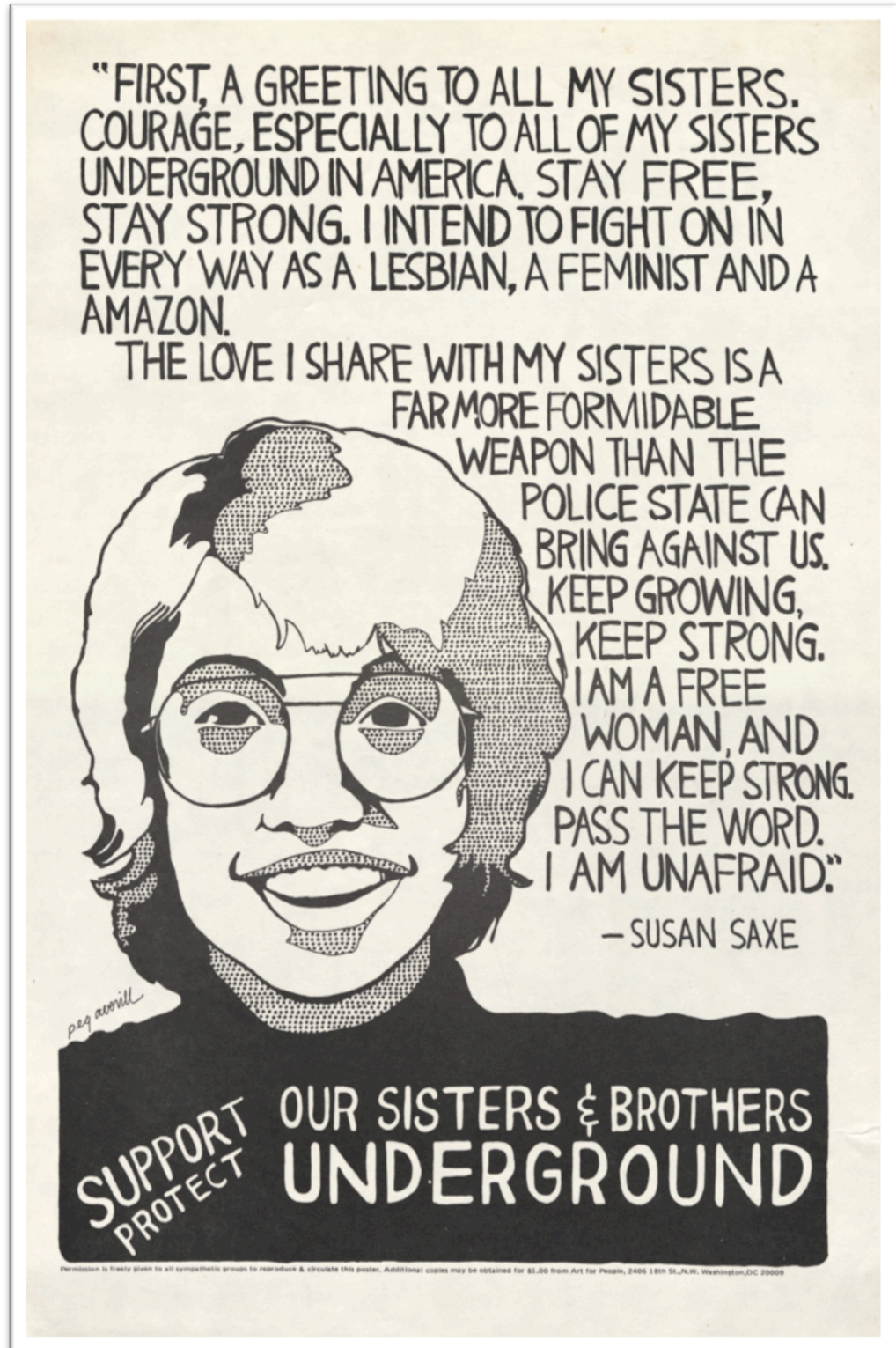


Figure 2.1 A poster Susan Saxe, accompanied by an excerpt from Saxe's first public statement to her supporters. From the Atlanta Lesbian Feminist Alliance Archives Collection, David M. Rubenstein Rare Book & Manuscript Library, Duke University.

actions, as opposed to holding activists responsible for government retaliation. While resistance vis-à-vis the underground came with a risk that could, in certain circumstances, implicate others, the only way Saxe and Power could protect lesbians, feminists, socialists, and radicals would be to turn themselves in. Cooperation, however, was simply out of the question.

Johnston and Raymond's debate over lesbian feminist resistance captures the limits of lesbian feminism and separatist ideology, especially in a time of crisis. When the FBI arrived in Lexington—eager to find and arrest Saxe and Power—they descended upon the larger leftist community. From that point, they narrowed their focus to the gay community, and finally, to Lexington's lesbian feminists. Though Johnston dismissed state resistance as a conventional “male model of historical change,” there was nothing conventional about the choices that Lexingtonians made in standing up to the state. The resistance that emerged in Lexington braided three ideologies together in order to produce the politics of queer resistance: an unwavering belief in the state as the primary oppressor that must be resisted and disrupted, a commitment to solidarity across multiple leftist ideologies, and a disavowal of essentialist and separatist feminisms that overlooked the ties that form in the face of shared marginalization like racism or homophobia. Armed with the power of queer resistance, those under FBI surveillance prepared themselves for the second wave of state violence: the federal grand jury.

Silence, Civil Liberties, and Prosecutorial Abuse of the Grand Jury

By the time the FBI received the tips that would lead to simultaneous investigations in New Haven and Lexington, they were particularly determined to find

Saxe and Power considering they had been underground for more than four years.⁸⁴ Their inability to extract useful information—the result of a true lack of information as well as noncooperation—motivated the FBI to expose a lesbian feminist underground network in Lexington. When surveillance efforts proved futile, the FBI turned to the Justice Department to convene a grand jury. Despite the fact that little evidence supported the FBI's theory that people in Lexington knowingly harbored fugitives, the U.S. attorney convened a federal grand jury that allowed the state to subpoena uncooperative citizens and force them to break their silence. In the absence of a federal judge and legal counsel, witnesses were required to cooperate or risk being charged with contempt. The punishment for contempt was an indeterminate jail sentence that lasted as long as the witness refused to testify, up to the expiration of the grand jury term.

In 1974, Robert Gilbert Johnston explained that “the principle power of the grand jury today is to decide whether prosecutions for more serious offences should proceed to trial.” In other words, grand juries were different from a typical court proceeding, in which an investigation is conducted and evidence gathered in order to ascertain guilt. Grand juries evaluate existing evidence—they do not function as an investigative body. The potential for abuse stems from the fact a federal or state prosecutor meets with the grand jurors in the absence of a judge or attorneys. The prosecutor can influence the grand jury to act in the best interests of the state by determining whom to subpoena, guiding the questioning, and selecting (or censoring) what information is revealed to grand jurors. For example, if the state's goal is to indict someone, the prosecutor might accomplish this by presenting “hearsay information to the grand jury to obtain an indictment.” Even in the event this hearsay information turns out to be obtained illegally,

Johnston emphasizes that “an indictment will normally not be dismissed even. . . [in the event the prosecutor] presents illegally seized evidence.” In addition to being armed with the ability to present information to the grand jury that would be inadmissible in a trial, prosecutors are under no obligation to present evidence that might point to a witness’s innocence. The prosecutors, as Johnston points out, may be able “to prejudice or even manipulate the grand jurors and obtain an indictment when there may not be sufficient evidence to hold an accused for trial.” Armed with the ability to persuade a grand jury to “indict a ham sandwich,” as the saying goes, prosecutors can protect witnesses from indictments just as they can produce indictments. In the event jurors decline to indict, the state can reconvene a new grand jury. In theory, the state can convene as many grand juries as it takes to reach a desirable outcome.⁸⁵

The FBI’s ability to retaliate against lesbian feminist communities in New Haven and Lexington hinged on the state’s ability to engage in prosecutorial abuse. Grusse and Turgeon’s experience foreshadowed the fate of grand jury resisters in Lexington. As reported by *GCN*, Grusse and Turgeon received grand jury subpoenas “within two weeks of their refusal to cooperate” with the FBI.⁸⁶ In an effort to exert maximum pressure, the state used last minute subpoenas against the women.⁸⁷ Turgeon’s subpoena arrived at 3:30pm on January 27 and instructed her to appear before the grand jury at 10:00am the following day. Worse, Grusse’s subpoena arrived at 6:30am on January 28, and required her to appear later that day. This tactic ensured that the women had little to no ability to consult an attorney prior to appearing before the grand jury, the effect of which only made them more vulnerable to an already opaque legal procedure.

When Grusse and Turgeon appeared, they “refused to speak because of ‘an absolute moral belief that the investigation the government is engaged in violates our basic constitutional and human rights.’”⁸⁸ From their perspective, both the FBI and federal prosecutor’s line of questioning violated their civil liberties, particularly their right to privacy and unwarranted search and seizure. Not only did the prosecutor pose “sweeping questions about roommates, friends, house guests, visitors and conversations since 1970,” the U.S. attorney also subpoenaed four years worth of personal correspondence.⁸⁹ In addition to concerns about the attack on their civil liberties, Grusse and Turgeon were concerned that the FBI’s investigation would out their friends and acquaintances. By February, Grusse and Turgeon were charged with contempt, and jailed on March 5. Although they were released on April 1, they were subpoenaed to a new grand jury and began the process all over again. The second subpoena led to new contempt charges, and the women returned to jail.⁹⁰

In Lexington, the FBI turned to U.S. Attorney General William B. Saxbe to convene a federal grand jury. The U.S. Attorney, Eugene E. Siler, Jr., convinced the jury to subpoena Raymond, Seymour, Cohee, Hands, Link, and Junkin. While last minute subpoenas were not used in this case, Grusse and Turgeon’s experience in New Haven prompted the Lexington community to assemble a legal team in anticipation of last minute subpoenas. Robert Sedler, professor of law at the University of Kentucky and the state’s leading civil liberties attorney, and Judy Peterson, an attorney from Tampa, Florida, agreed to defend the civil liberties of the Lexington Six with the support of the newly assembled Lexington Grand Jury Defense Fund.⁹¹ Indeed, grand jury resistance presented a new set of problems that required a team of experts to navigate the criminal

justice system. As Kundert recalls, “I thought the FBI [was] the problem. And then we [found] out the FBI is not the problem, there’s this thing called grand juries.”⁹²

The Lexington grand jury began on February 10, 1975.⁹³ From the moment Sedler agreed to represent the Lexington Six, he believed the FBI intended to use the grand jury to harass members of Lexington’s lesbian feminist community. Although the stated purpose of the grand jury was to determine whether anyone in Lexington was harboring a fugitive, Sedler recalls that “there [was] no serious claim that anyone was harboring a fugitive. . . [there was] no serious claim that anyone knew [who Lena and May] were.”⁹⁴ Instead, the grand jury was used to produce an ethnography of queer life in Lexington. In an attempt to unveil an “incredible lesbian feminist conspiracy and underground,” Siler posed idiosyncratic questions about the lesbian feminist community.⁹⁵ Sally Kundert recalls hearing that the women were asked:

“How do lesbians make love? . . . What do [lesbians] read? Where do they buy their groceries? What’s their mode of transportation? Where do they have their bikes fixed?” They just generally wanted a lifestyle analysis so they know where to put people. It [was] very bizarre questioning.⁹⁶

Siler’s questions were not necessarily bizarre in light of the FBI’s nationwide surveillance of lesbian feminist communities. As Anne Enke’s study of 1970s feminist and lesbian culture points out, it was not uncommon to see “FBI guys in their trench coats and wing-tips” in women’s spaces like the Amazon bookstore in Minneapolis, Minnesota.⁹⁷ Still, Siler’s propensity to ask questions ranging from the innocuous (where do lesbians get their bikes fixed) to the titillating (how do lesbians make love) outraged the Lexington Six. Junkin remembers that Siler asked “who I’d been to bed with this

year. I said it's none of your business and it's completely out of the scope of this investigation."⁹⁸ In attempting to explore the contours of gay and lesbian sex, the government revived tactics used in the Lavender Scare to identify and persecute queer people. Within the context of the grand jury, invasive questions could only be understood as a deliberate form of humiliation that used homophobia to criminalize uncooperative witnesses.

If the Lexington Six began the grand jury with the intent to resist, Siler's questions did not inspire them to reverse their decision. Instead of answering, they plead the First, Fourth, Fifth, and Ninth Amendments.⁹⁹ After their first appearance, Sedler and Peterson filed a motion to quash the Lexington Six's subpoenas—a maneuver that would effectively end the grand jury. The motion to quash, however, was filed on the same day that Siler motioned to grant the Lexington Six use immunity. Sedler argued that the court should not grant use immunity to the six witnesses “until we have a full evidentiary hearing on our claim of grand jury abuse,” but the evidentiary hearing never took place, nor was the motion to quash granted.¹⁰⁰ Instead, Judge Bernard T. Moynahan, Jr. scheduled a hearing for February 21, 1975 to decide upon, and ultimately grant, use immunity to the Six.¹⁰¹ The compulsory nature of use immunity—witnesses could not decline it—forced the Six to choose between cooperation and contempt. Because use immunity paid lip service to a real immunity deal, the success of this tactic hinged not on a mutually beneficial negotiation, but on the assumption that the Six valued their freedom more than the information they withheld from the state.

As an act of queer resistance, the Lexington Six's silence prohibited the state from gathering more information about the lesbian feminist community. The Six's willingness

to go to jail not only defied the state's expectation for cooperation, it drew attention to the state's dependence upon legal violence as a mechanism of coercion and repression. As Junkin explained,

the FBI had come across six people who wouldn't tell them what they wanted to know, so they used the grand jury as a fishing expedition. The political ramifications—God—if they could get away with it in Lexington, with one gay man and a couple of women, what's to stop them from investigating the Democratic Party? From investigating the National Organization for Women? From investigating whatever they want to investigate, and just impaneling a grand jury and subpoenaing people. I mean, you'd end up with the police state in ten years, or less. And we figured that people had to be educated [about] how easily the grand jury could be abused.¹⁰²

From Junkin's perspective, subpoenaing a small group of white, middle-class, gay and lesbian college students to a grand jury was an experiment in legal violence that, if successful, could be refined and applied to any other leftist, radical, or otherwise progressive organization in the country that the state perceived as threatening. The Lexington Six's resistance not only exposed the state's methods of coercion, it revealed how the FBI relied upon the Department of Justice to gather intelligence. For Junkin, demonstrating the state's abuse of the grand jury was critically important. Allowing the state to succeed would only bolster the state's confidence in legal violence as a viable means to retaliate upon anyone engaged in political dissidence.

Toward Collective Defense: “We don’t talk about our sisters to the state”

On March 8, 1975, the Lexington Six were charged with contempt, and immediately began indeterminate sentences, sans bail, in Kentucky jails for a period up to 18 months. In light of their failed motion to quash, Sedler and Petersen filed motions for the “search and disclosure of electronic or other surveillance” just days before the contempt hearing. If Sedler and Petersen hoped this motion would “suppress the fruits of unlawful electronic surveillance,” the U.S. attorney destroyed this defense strategy and sidestepped an investigation by producing an affidavit that simply denied that unlawful electronic surveillance took place.¹⁰³ As such, the Six were separated into pairs and jailed throughout the state: Raymond and Cohee were sent to the Bell County jail in Pineville, 120 miles southeast of Lexington; Junkin and Hands were sent to the Madison County jail in Richmond, 25 miles south of Lexington; Seymour and Link were sent to the Franklin County jail in Frankfort, 23 miles northwest of Lexington. Among the supporters of the Lexington Six, many of whom were active in the Lexington Grand Jury Defense Fund, it was obvious that splitting the six and spreading them out across the state was an attempt to drain supporters’ time, energy, and resources so that the jailed witnesses might be compelled to testify more quickly.¹⁰⁴

When the Lexington Six were sent to “some of the worst county jails in Kentucky,” their supporters worried that they would endure threats to their health and safety as a gay or lesbian inmate.¹⁰⁵ Junkin, for instance, immediately received threats of violence from a guard at the Madison County jail: “Look you goddamn queer. This is my fucking jail. You get out of line here, I’m going to bust your head.”¹⁰⁶ The women were especially concerned about the lack of privacy and their vulnerability to sexual assault by

male guards. In addition, the instability of jail, compared to the relative stability of prison, played a structural role in convincing individuals to testify. Had the Six been sent to prison, they would have had access to a stable community, and might have benefitted from the dietary, recreational, and outdoor requirements determined by the Federal Bureau of Prisons.¹⁰⁷ Although the Lexington Grand Jury Defense Fund responded by providing the Six with food, reading materials, and regular visits, the jails the Six were sent to were not designed to house individuals on a long-term basis. Thus, the decision to remain incarcerated required each person to jeopardize their health and safety on a daily basis.

Across the country, leftist groups revered the Lexington Six's decision to go to jail. However, many at the local level believed that going to jail served no purpose. For example, Selder conveyed to the Six that going to jail "wasn't worth you all injuring your lives and altering your lives. . . It just wasn't worth it. The point was made. . . grand jury abuse was exposed, you don't have information. . . and you ought not to."¹⁰⁸ Kundert shared a similar perspective and wondered—even as co-chair of the defense fund—"what difference did it make?"¹⁰⁹ It is possible that Sedler and Kundert's critiques stem from the retrospective fact that five of the Six purged themselves of contempt within two months of their incarceration. With the exception of Hands, who purged herself of contempt within a matter of days, individual decisions to purge were often carefully timed to be as unhelpful to the FBI as possible. For example, Junkin purged himself only after Saxe's arrest, so that whatever information he provided could not, in any way, be used to aide in Saxe's arrest (though Power remained at large).¹¹⁰ Similarly, Seymour, Cohee, and Link waited to purge themselves in May, only after Moynahan denied them

bail.¹¹¹ Only Raymond would remain in jail for the following twelve months. She was released when the grand jury expired on May 3, 1976.

Critiques leveled against the Six attacked both the decision to testify as well as the decision to remain in jail. Some radical feminists likened testifying to acquiescence, and attempted to bribe the women to stay in jail. For example, Ti-Grace Atkinson called Hands and told “her that if she didn’t talk. . . she’d send her candy in jail.”¹¹² Regardless of the infantilizing bribe, many recognized this Atkinson as putting “unfair pressure” on Hands.¹¹³ Other feminists maintained there was no point in going to jail if one was not willing to sit through the entire term. Raymond’s decision to remain in jail for the full term was not, however, beyond critique. Some of Raymond’s closest friends presumed that she wanted “to be a martyr,” and only remained in jail because talking would “make her look bad.”¹¹⁴ The urge to call Raymond a martyr—in a pejorative fashion, to be sure—dismissed Raymond’s resistance as self-serving and disingenuous.

Taken as a whole, the critiques of the Lexington Six’s incarceration demonstrate a desire to discredit acts of queer resistance on account of their purported failure or inefficiency. For those who consider the penultimate decision to purge themselves of contempt and testify as an act of failure—in which one trades testimony for freedom—I suggest that the Lexington Six “failed” on queer terms. In the words of Jack Halberstam, queer failure leads to “different rewards,” where in this case, one’s decision to testify and gain freedom does not erase or undermine the overarching act of disrupting the FBI that the Six embarked upon in the first place.¹¹⁵ Framing queer resistance as an all-or-nothing phenomenon not only minimizes the sacrifices made in choosing to go to jail, it

overlooks the numerous acts of resistance that took place leading up to the Lexington Six's contempt charges.

For the Lexington Six, queer resistance could not necessarily prevent the state from engaging in violent acts, but it did damage the state's ability to benefit from that violence. For example, it was impossible to stop the FBI from engaging in surveillance, but it was possible to interfere with the FBI's ability to surveil successfully. Similarly, while the Lexington Six could not prevent the state from impaneling a grand jury, they could transform the grand jury into an inconvenient process that interfered with the state's ability to achieve its goals. Queer resistance disrupted the state's dependence on surveillance, harassment, and legal violence as methods of scaring citizens into docility. In recognizing that FBI harassment *already* portrayed them as criminals in a homophobic society, the Lexington Six's refusal to cooperate in the grand jury further exposed how the state exploits the "deviance" and "criminality" of marginalized people. To be sure, the grand jury proceeded even after the FBI and U.S. attorney "began to doubt these people knew where Susan and Katherine were."¹¹⁶ Rather than drop the subpoenas and admit to unnecessary harassment, Sedler recalls that the grand jury became a "matter of principle" that served to justify the FBI's behavior.¹¹⁷ In proceeding in this fashion, the state failed to account for the ways in which their actions "were going to piss off human beings."¹¹⁸

In refusing to "talk about our sisters to the state," the Lexington Six united at a time where political divisions separated feminists into radical, socialist, cultural, and lesbian factions.¹¹⁹ At a time when white feminists were especially prone to embracing the essentialism of cultural feminism, the Lexington Six stressed the importance of

protecting their sisters from the patriarchal state, in particular the state's use of classism, and homophobia. Queer resistance, then, mobilized an intersectional understanding of sisterhood that called for solidarity among multiply marginalized women who were vulnerable to legal violence. The Lexington Six's queer resistance can be considered an act of "collective defense," which, as Emily Hobson argues, unified "varying expressions of counterviolence" by highlighting "how lesbian feminists tied women's autonomy to left solidarity against the U.S. state."¹²⁰ As a "rhetoric, theory, and a practice," collective defense "fueled the growth of a lesbian feminist left dedicated to anti-imperialist solidarity."¹²¹ In drawing attention to the way the state used legal violence against the lesbian feminist community, the Six contributed to collective defense by charting a path for FBI and grand jury resistance that other marginalized targets could use to resist legal violence. From the perspective of the Six, the state was likely to plague other vulnerable communities with grand juries.

Collective defense took the form of two important educational efforts that emerged in the midst of the New Haven and Lexington grand juries. The first took the form of pamphlets and other printed materials that sought to alert leftist communities—in particular, lesbian feminist communities—to the danger of the FBI's presence. One pamphlet in particular, circulated by the National Lawyers Guild, emphasized that FBI agents were trained to manipulate individuals into contradicting themselves. These contradictions put individuals at risk because, as the pamphlets explained, it was illegal to lie to an FBI agent.¹²² However, the pamphlets reminded individuals that they maintained the right to refuse to speak to FBI, especially in the absence of an attorney, no matter how much pressure the FBI applied. As one pamphlet emphasized, "there is only one way to



Figure 2.2. Front cover of a pamphlet circulated by the National Lawyers Guild, featuring caricatures of FBI agents. This pamphlet provided legal information to individuals subject to FBI harassment, circa 1975. From the Atlanta Lesbian Feminist Alliance Archives Collection, David M. Rubenstein Rare Book & Manuscript Library, Duke University.

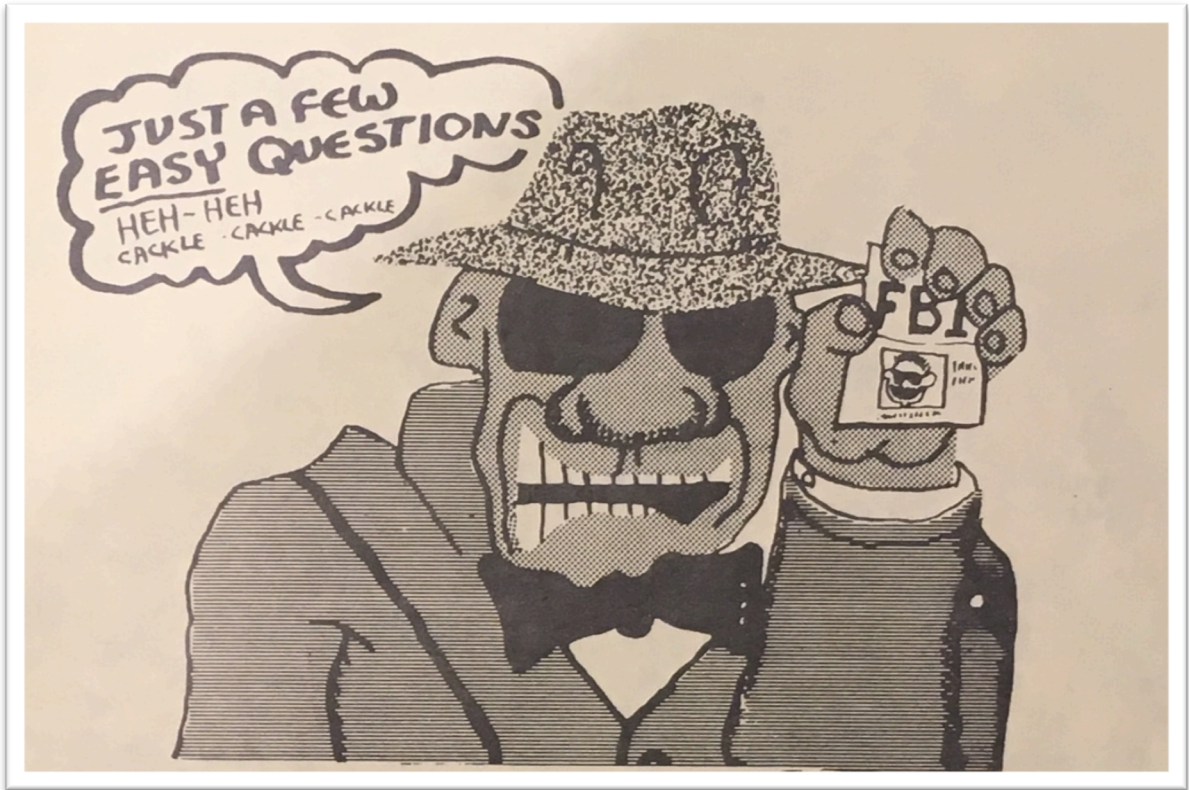


Figure 2.3 Racist caricature of an FBI agent, which uses blackness to convince white women to refuse to cooperate with FBI agents, circa 1975. From the Atlanta Lesbian Feminist Alliance Archives Collection, David M. Rubenstein Rare Book & Manuscript Library, Duke University.

deal with the FBI: REFUSE TO TALK. . . The FBI pays its agents to use any methods that work in picking our brains.”¹²³ The pamphlets also offered physical descriptions of the FBI, and emphasized the fact they were easily recognizable. Caricatures of FBI agents (figure 2.2), however, were sometimes problematic. Images frequently portrayed agents as suited white men wearing hats and sunglasses, but some images depended on racist imagery to convey the danger of the FBI (figure 2.3). Because FBI agents were in the habit of appearing at the door of their target’s homes, depicting FBI agents as black or brown invoked the myth of the predatory black man who wanted to take advantage of vulnerable white women. The racist criminalization of blackness, however, may have appealed to white women accustomed to relying upon law enforcement for their protection. In this case, the black or brown FBI agent was “sinister” on account of his race, rather than account of his duties.

In addition to the publication of anti-FBI materials, significant efforts were made to educate the public about the prosecutorial abuse of the grand jury. In the absence of the Justice Department’s oversight, educating the public was considered one of the most effective ways to motivate citizens to identify and disrupt grand jury abuse. In the later 1970s, the Coalition to End Grand Jury Abuse (CEGJA) circulated booklets that explained the history of the grand jury, nuances of subpoenas and civil contempt charges, types of immunity deals, and signs of prosecutorial misconduct. The booklet also outlined a grand juror’s responsibilities, and made several recommendations regarding ways to protect grand juries from prosecutorial manipulation. For example, CEGJA alerted jurors to the use of last minute subpoenas, which prevented witnesses from consulting an attorney prior to their appearance. CEGJA also recommended that grand jurors ask their

“prosecutor if any other evidence exists that would shed a different light on the case at hand,” and encouraged grand jurors to think independently, be watchful, and question prosecutors.¹²⁴ CEGJA’s booklet did not intend to replace grand jury instructions, but instead worked to enhance a prospective grand juror’s knowledge about the legal procedure. Not only were citizens more aware of grand jury processes, CEGJA’s efforts worked to transform citizens into grand jurors who could identify and intervene in abuse.

Shutting Down Tight

In the words of Sedler, “no one really thought [the Lexington Six] would go all the way to jail.”¹²⁵ Sedler’s remark underestimates the power and conviction of marginalized individuals by suggesting that many believed the Lexington Six would prioritize their individual safety over the safety of their community. By engaging in queer resistance and refusing the homonormative impulse to cooperate with the government, the Lexington Six exposed the relationship between FBI surveillance, the criminalization of citizens who invoke their Fifth Amendment rights, and the inevitability of jail. As political people transformed into political prisoners, the Lexington Six experienced the effects of political repression, particularly when the state deployed a legally sound punishment. The opportunity to jail a group of white, middle-class, gay and lesbian college students allowed the state to add to their book of cautionary tales about punishing political dissidents. The state did not anticipate, however, that the Lexington Six’s resistance would force the state’s hand, and teach other communities how to resist.

Whether or not the Lexington Six defeated or succumbed to the state depends on one’s perspective. The Lexington Six’s imprisonment allowed the state to prove that jail

functioned as an effective means of coercion that would eventually lead the majority of resisters to testify before the grand jury. The violence one endured throughout one's incarceration came into sharp relief when Hands, Junkin, Link, Seymour, and Cohee offered information that was of little to no use to the FBI. While the political efficacy of imprisonment drew considerable criticism, Raymond's ability to remain silent must be recognized as a personal and political victory. To that end, focusing on the perceived failures of the Lexington Six overshadows their accomplishments. In the process of resisting FBI harassment and the grand jury's legal violence, the Six disrupted the state's surveillance methods, insisted on solidarity across groups who remained vulnerable to legal violence, and mobilized people across the country to resist the FBI and fight against prosecutorial abuse. As Kundert recalls, the Lexington Grand Jury Defense Fund "had articles in newspapers all over the country. . . once we had people communicating . . . people knew not to say anything."¹²⁶ The lesbian feminist community in Philadelphia exemplified what it meant to "shut down tight" in the aftermath of Saxe's arrest on March 27, 1975.¹²⁷ As suspicion of illegal surveillance loomed over the community—the FBI, for one, moved into the apartment below Saxe's then-girlfriend, Bryna Aronson—women tirelessly prepared the community to respond to FBI surveillance and grand jury subpoenas in Philadelphia.¹²⁸

In the wake of Raymond's release from jail on May 3, 1976, and Saxe's arrest, trial, and sentencing between 1975-1977, the FBI's visible presence in Lexington decreased considerably. However, as the Lexington Six began their lives in cities across the country, the search for Katherine Power continued. Convinced that lesbian feminists from Lexington knew of Power's whereabouts, the FBI surveilled them accordingly. For

example, the FBI kept tabs on Kundert and Raymond for years after the Lexington grand jury. When Raymond moved to Washington D.C., the FBI sifted through her garbage for so long that her garbage man eventually asked her: “why do they make me. . . take your garbage to a certain place? Are you some kind of rock star or something?”¹²⁹ Similarly, the FBI continued to maintain contact with Kundert because they believed she was in communication with Power. In 1978, they arrived at her door on the day of her baby shower, offered a half-hearted apology for “everything that happened,” and asked Kundert if she would “give some information to Kathy Power? Could you tell her that it would be okay for her to give herself up now? That there wouldn’t be any problems?”¹³⁰ Although Kundert scoffed at the request, the FBI returned in 1980 to repeat their request to Kundert’s mother.

It is difficult to know the extent to which acts of resistance impacted the state. For example, it is unclear if the preparations made in anticipation of FBI surveillance influenced the FBI to decide against a grand jury in Philadelphia, or if other factors were at play. Still, the Lexington Six’s strategy in confronting the state reveals three interventions that queer resistance makes. First, the Lexington Six’s experience demonstrates that queer resistance is not a linear process that results in, or demands, success. Instead, queer resistance seeks to disrupt, to intervene, and to challenge institutions. Second, queer resistance is context-specific, and does not need to constitute a set of replicable actions. In this sense, queer resistance prioritizes acts of disruption that inhibit the state’s ability to perpetrate violence, and remains malleable in the face of the state’s commitment to immobilization. Finally, queer resistance advocates for solidarity across marginalized groups. In the wake of a fracturing women’s movement, a good part

of which advocated for matriarchy, cultural separatism, and/or lesbian separatism, the Lexington Six never lost sight of the state's ability to adapt, transform, and apply new methods of violence against marginalized groups.

The 1980s would bring a resurgence of federal grand jury abuse as leftist revolutionaries sought shelter in the underground. Failed actions, such as the 1981 Brink's Robbery, wreaked havoc on the leftist revolutionary community as the FBI made sweeping arrests. The grand jury would continue to be used as a form of legal violence to compel testimony, and jail those revolutionaries who refused to cooperate with law enforcement. However, as the next chapter demonstrates, the discourse around "leftist revolutionaries" would turn toward the language of "terrorism" to justify more expansive, and more violent carceral regimes. Within ten years of the Lexington Six's refusal to cooperate with the FBI, the Bureau of Prisons would announce the opening of the first women's high security unit in the nation at the Lexington Federal Prison.

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CHAPTER 3. From COINTELPRO to Counterterrorism:
Carceral Power and the Lexington High Security Unit

The Rise of Maximum Security

On October 31, 1986, the *Lexington Herald-Leader* announced that “two convicted female terrorists” had arrived in the Bluegrass to serve decades long sentences in the newly constructed women’s High Security Unit (HSU).¹ The 16-bed unit, literally buried in the basement of the Federal Correctional Institution (FCI) in Lexington, Kentucky, ushered women—specifically those deemed terrorists in the eyes of the state—into the burgeoning world of maximum security incarceration. In 1986, maximum security units were only beginning to gain popularity in the U.S. carceral landscape. Up until the opening of the Lexington HSU, the men’s penitentiary in Marion, Illinois, operated as the sole maximum security prison in the country, housing the most severe security risks—men classified at level six—in twenty-four hour lockdown.² According to the Bureau of Prisons (BOP), women classified at security levels four or five would serve their terms in the Lexington HSU.³ The BOP considered several factors when formulating an inmate’s security classification, including their “criminal offense and institutional behavior.”⁴ The HSU, however, afforded the BOP the additional opportunity to consider a prisoner’s past or current political affiliations. As a unit created with leftist female terrorists in mind, political affiliation functioned as a crucial piece of information in the era of clandestine revolutionary action and successful prison breaks.

From the perspective of anti-prison activists, the new unit marked the dangerous spread of carceral power. Activists immediately anticipated that Susan Rosenberg and Alejandrina Torres—women whose involvement in leftist revolutionary groups marked them as domestic terrorists—would be sent to the unit and forced to endure conditions

that “would deprive prisoners of their basic rights.”⁵ On April 19, 1986, six months before the HSU opened, three hundred activists gathered outside the fences of FCI-Lexington to protest the unit’s extreme conditions and the anticipated targeting of political prisoners. FCI spokesperson, Dan Dove, attempted to assuage the activists, claiming that “federal corrections officials had not identified the prisoners who would be transferred to Lexington.”⁶ Anti-HSU activists’ foreshadowing proved accurate when Rosenberg and Torres were transferred from MCC, Tucson to Lexington.⁷ Although the HSU’s population would never contain more than seven inmates over the course of its 21-month operation, the first three women transferred to Lexington were reclassified into higher security levels solely on basis of their radical leftist politics.

Of all the women whom the BOP could choose to send to the HSU, the BOP selected women known for their commitment to armed revolutionary struggle as anti-imperialists, anti-racists, and anti-capitalists. Between 1980 and 1985, Silvia Baraldini, Kathy Boudin, Marilyn Buck, Judith Clark, Bernadine Dohrn, Linda Evans, Eleanor Raskin, Susan Rosenberg, Alejandrina Torres, Laura Whitehorn, and Cathy Wilkerson came into custody by way of arrest or surrender. Taken as a whole, these women represented a number of radical leftist groups, including the Weather Underground Organization (WUO), the Prairie Fire Organizing Committee (PFOC), May 19th Communist Organization (M19), the Black Panther Party (BPP), the Black Liberation Army (BLA), and the Fuerzas Armadas de Liberación Nacional (Armed Forces for National Liberation, FALN). With the exception of Dohrn, Raskin, and Wilkerson, all were charged and sentenced to extensive prison time. Sentences ranged from 20 to 80 years, but the vast majority were indeterminate based on the “to life” qualifier that

followed a double-digit number. In keeping with the mission of the HSU, one might expect that all eight women would be incarcerated in the HSU. This, however, was not the case. The BOP hand selected three of the eight women for its experimental behavioral modification unit focused on small group confinement. Others would remain at correctional facilities in New York, Washington D.C., Louisiana, Arizona, and California.⁸

This chapter considers how the intelligence community's fight against radical leftist revolutionaries in the 1960s and 1970s emerged, by the 1980s, as a fully realized domestic counterterrorism movement. As early as 1972, the intelligence community began referring to leftist revolutionaries as terrorists, particularly when discussing groups like the Black Panthers, Black Liberation Army, and the Weather Underground Organization. I argue that the state shifted away from the language of "political dissidents" to "domestic terrorists" in an effort to criminalize and incarcerate members of the radical left. Once the state refused to recognize the left's commitment to protest and armed action as legitimate forms of political behavior, the state could render these actions threatening, abnormal, and/or dangerous, and punish radicals accordingly. The state's ability to cast a shadow of queerness upon acts of political dissidence, I argue, ultimately transformed leftists into queer enemies of the state whose actions threatened white supremacy, heteropatriarchy, and U.S. imperialism. Under the new rubric of domestic terrorism, the struggle against state sponsored racism, imperialism, and capitalism amounted to an illegitimate pursuit that exceeded the limits of respectable political dissent. I illustrate how the dichotomy between respectable dissent and irrational acts of domestic terror points to the early contours of homonationalism. As a biopolitical form,

homonationalism served the state by dividing marginalized people and their allies into two groups: those willing to uphold white, cis-gender, heteropatriarchal ideals under the guise of “acceptance” or “inclusion” amongst the privileged, and those who refused to acquiesce and function as docile citizens. In separating the left into two distinct parties, those who actively antagonized the state as “domestic terrorists” prompted the state to create new carceral technologies that specifically responded to domestic terrorism. The development of the Lexington High Security Unit, I argue, reflects this trajectory in creating a unit that targeted female terrorists for ideological reconditioning.

I advance this argument in three sections. First, I attend to the legacy of revolutionary women in the radical left, and consider the queer threat posed by the female terrorist. I document how early conceptualizations of “terrorism” shaped the early iterations of homonationalism by differentiating between acceptable forms of resistance and acts of terror amongst the radical left. I complicate terrorism, and its racial and ethnic connotations, by considering the ways a terrorist’s threat becomes more severe when the terrorist is multiply marginalized. I turn to the intelligence community’s obsession with former Panther-turned-BLA leader Assata Shakur. The government’s attacks on Shakur hinged on the intersection of blackness and femininity. The reputation the state established for Shakur was steeped in racist and misogynist beliefs that justified the use of violent carceral force that would contribute to her physical and psychological deterioration. The harshest and most problematic conditions of Shakur’s confinement would later be incorporated into the Lexington HSU. I insist that Shakur’s notoriously successful escape from a women’s prison in Clinton, New Jersey, forever changed the carceral landscape for leftist female terrorists in the United States. Shakur’s escape would

prompt the BOP to imagine a new, more punitive confinement strategy that prohibited such an escape from ever taking place again.

In section two, I outline the myriad philosophical and tactical overlaps that emerged among revolutionary groups in the late 1960s and early 1970s, particularly the Black Panther Party, Black Liberation Army, Weather Underground Organization, and Fuerzas Armadas de Liberación Nacional. Plagued by varying degrees of COINTELPRO repression, one might suspect that J. Edgar Hoover's 1971 moratorium on COINTELPRO activities in the aftermath of the program's revelation offered some reprieve to leftist revolutionaries. In this section, I suggest that COINTELPRO merely rebranded itself as a counterterrorism program that specifically targeted "urban guerrilla" organizations.⁹ I trace the development of Joint Terrorism Task Forces (JTTF) as they formed in response to the 1974 Freedom of Information Act (FOIA) that severely restricted the intelligence community's ability to use unauthorized forms of surveillance, including wire taps and bugs. Acting as a "force multiplier," JTTFs allowed the intelligence community to draw upon law enforcement labor as they sought out to monitor terrorist activities. I specifically track the impact JTTFs had on rounding up revolutionary women in the aftermath of the 1981 Brink's robbery, and detail the charges and disproportionate sentences issued to leftist female "terrorists." Faced with a critical mass of female "terrorists" with "special" security needs, I illustrate how the BOP reimagined the prison as part of the state's counterterrorism regime.

The figure of the queer female terrorist—"having gone beyond the bounds of acceptable female behavior in the U.S.," in the words of Rosenberg, Baraldini, Buck, and Whitehorn—served as the ideal subject upon whom the state could experiment with new

conditions of confinement intended to drive terrorists to the point of political renunciation.¹⁰ In section three, I examine the development of the Lexington High Security Unit, which served as a repository for female terrorists for twenty-one months. In identifying the numerous abuses perpetrated by the Lexington HSU, I analyze the lawsuit that overwhelmingly affirmed the legality of the HSU's conditions of confinement. I argue that the ACLU lawsuit that ordered the Lexington HSU to be closed in 1988 ultimately allowed new high security units to emerge and operate within other larger prisons, where they would remain protected from scrutiny. In examining a federal court's response to allegations of First, Fifth, and Eighth Amendment violations, I establish how the state prohibited "terrorists" from successfully claiming that the conditions of confinement they faced within the HSU violated their Eighth Amendment protections against cruel and unusual punishment. High security units, in meeting the basic requirements for life within a carceral space, allowed the state to produce the social, if not literal, death of its queer, dissident citizens.

Assata's Escape: Terrorism and the Origins of Homonationalism

On October 10, 2001, President George W. Bush released the first FBI Most Wanted Terrorists list to the public. Different from the FBI's Ten Most Wanted list, the new list identified men indicted for acts of terror between 1985 and 1998, the majority of whom were accused of facilitating the 1998 U.S. embassy bombings in Tanzania and Kenya.¹¹ As the War on Terror unfolded in the aftermath of the 9/11 attacks, the FBI continued to add names to the initial list of 22, in conjunction with a separate list of individuals suspected of seeking information about terrorism, but who had not yet carried

out attacks. Throughout the early 2000s, the individuals on the list were, unsurprisingly, overwhelmingly Middle Eastern and/or Muslim, and would lead the American public to believe that brown men were the exclusive perpetrators of global terror aimed at destroying Western democracy. The FBI, however, broke this trend when they added Assata Shakur—the first woman, and second U.S. citizen—to the list on May 2, 2013, the 40th anniversary of the New Jersey Turnpike shooting.¹²

Writing in 2014, Angela Davis described the FBI’s decision to add Shakur as “ceremonious,” “bizarre,” and “incomprehensible.” She queried:

what interest would the FBI have in designating a 66-year-old black woman, who has lived quietly in Cuba for the last three and a half decades, as one of the most dangerous terrorists in the world—sharing space on the list with individuals whose alleged actions have provoked military assaults on Iraq, Afghanistan, and Syria?

In aiming to distinguish Shakur from twenty-first century terrorists, Davis highlights how conceptualizations of terrorism have shifted over time. She writes: “the term [terrorist] was abundantly applied to U.S. black liberation activists [herself included] during the late 1960s and early 70s.” For Davis, calling Shakur a “terrorist” in 2014 obscures the historical circumstances that not only motivated Shakur to act, but influenced the state to name terrorism as a pervasive threat to national security. Regardless of the FBI’s ahistorical use of the word *terrorism*, distinguishing an individual or group as terrorist allows the state to invest in anti-terrorist efforts that target racial, ethnic, and/or sexual difference. In other words, the actions that the state associates with *terrorism* may vary

over time, but the state's approach to containing and annihilating *terrorists* remains overwhelmingly focused on maintaining national security.¹³

Jasbir Puar's seminal text on the twenty-first century war on terror argues that the state divides queer populations into "terrorist and citizen bodies" based on the way queers subscribe to homonationalism.¹⁴ In deploying queer as an analytic marker of difference inclusive of gender, sexuality, race, and ethnicity, Puar looks to the ways in which marginalized subjects turn to homonationalism—a term derived from Lisa Duggan's concept of "homonormativity"—to engage in the reproduction of white supremacy, heteropatriarchy, and capitalism so that they may benefit from "associations with white national hetero- and homonormative bodies."¹⁵ For Puar, the practice of homonationalism involves disavowing "perversely sexualized populations," where the "queer or homonormative ethnic is a crucial fractal in the disaggregation of proper homosexual subjects joining the ranks of an ascendant population of whiteness."¹⁶ In other words, homonationalism is a form of discipline and control that rewards the queers who are willing to perpetuate the status quo. Homonationalism appeals to these queers because it offers them a chance to be "folded into life," where queer subjects are celebrated and included on account of their ability to contribute to and uphold white supremacy, heteropatriarchy, and capitalism.¹⁷ As "citizens," homonational queers stand in contrast to those who are undesirable: populations deemed "sexually pathological and deviant." Within this population lies the terrorist, who must be literally or figuratively "targeted for death" on account of their difference.¹⁸ From Puar's perspective, the U.S.-led war on terror exemplifies the way ethnic and sexualized queerness is used to target "terrorists" in the Middle East, which, at the time of writing, has resulted in the deaths of more than

335,000 innocent Afghan, Iraqi, and Pakistani civilians.¹⁹ This war, initiated as a response to the 9/11 attacks, not only legitimized U.S. military occupation in the Middle East as a “counterterrorism” strategy, it diffused xenophobia throughout the United States. Almost twenty years later, anti-Muslim racism and xenophobia persists domestically in the form of travel bans, increasingly restrictive immigration policy, limiting the number of accepted refugees, and presidential calls to send legitimately elected U.S. lawmakers “back” to the countries they presumably belong to.

Puar’s scholarship maintains that the word terrorist is strategically (and biopolitically) deployed by the state to control and destroy bodies who either “decline or are declined entry [to homonormativity] due to the undesirability of their race, ethnicity, religion, class, national origin, age, or bodily ability.”²⁰ Calling Assata Shakur a terrorist—be it in 1973 or 2013—situates her blackness, her femininity, and her leadership in the Black Liberation Army as undesirable and improperly queer. If terrorists have always been portrayed as racial others, Shakur’s experience stands out because it demonstrates how women, especially women in leadership roles, are portrayed as particularly ruthless and violent. Of course, Shakur’s status as a “terrorist” is meant to overshadow the numerous, state-sponsored attacks on Shakur’s community that instigated her alleged actions. In framing Shakur as a terrorist, the state situated its attacks on communities of color as acts of counter-terrorism, thus absolving itself of responsibility for violence they, in fact, instigated. It is thus crucial to recognize that the state deploys the term terrorist to satisfy its own racialized and gendered interests. For example, Shakur’s philosophy on violence was formulated as a *response* to state-sponsored police brutality, who in her view, amounted to “nothing but a foreign, occupying army, beating,

torturing, and murdering people [of color] at a whim and without restraint.”²¹ Violence, for Shakur, was perceived as a last resort. “I despise violence,” Shakur wrote in her autobiography, “but I despise it even more when it’s one-sided and used to oppress and repress poor people.”²²

Law enforcement’s preoccupation with Shakur aligns, in part, with a larger targeted attack on revolutionaries fighting racism, imperialism, and capitalism. Long before the FBI and law enforcement would name Shakur the “‘high priestess’ and ‘the soul’ of the ‘cop-hating BLA,’” authorities took special interest in Shakur based on her involvement with the Panthers.²³ Shakur recalls being the subject of COINTELPRO surveillance: not only did FBI agents follow Shakur in the early 1970s, she was certain her apartment and/or telephone line was bugged.²⁴ Her first arrest, however, occurred after she was shot on April 5, 1971, when she allegedly attempted to rob guests at the Statler Hilton Hotel.²⁵ Shakur faced charges of “attempted robbery, felonious assault, reckless endangerment and possession of a deadly weapon,” but was released on bail.²⁶ Shakur skipped bail, an act that only further bolstered her reputation as a “radical terrorist” who pursued violence for the sake of violence.²⁷ Within months, law enforcement found themselves hunting for Shakur once again, only this time, they wanted to question her in the aftermath of several police deaths: the May 19, 1971 shooting of two officers on Riverside Drive in New York and the January 29, 1972 shooting of two officers in the East Village.²⁸ Shakur had no interest in speaking to law enforcement in light of the intense police repression that the black community experienced, and promptly slipped underground.²⁹

When police efforts to locate Shakur proved futile, law enforcement turned to the public. The search for Shakur expanded throughout New York City. According to Alondra Nelson, photographs of Shakur appeared “everywhere. . . in newspapers like the *New York Daily News*, [and] in subway stations.”³⁰ The effect of this campaign not only attributed a “larger than life” ethos to Shakur, it also, as Akinyele Umoja notes, enabled law enforcement to “tie Assata to every suspected action of the BLA involving a woman.”³¹ Consequently, when Shakur and fellow BLA members Zayd Malik Shakur and Sundiata Acoli were pulled over by state troopers on the side of the New Jersey Turnpike on May 2, 1973, tensions immediately flared and gunfire erupted. The altercation left Zayd Shakur and trooper Werner Forester dead, and Assata Shakur seriously injured from three gunshot. Cuffed to a hospital bed, Shakur’s recovery would be accompanied by a daily smattering of police intimidation, violence, and endless questioning.³²

Shakur’s exaggerated status as a “cop killer” determined the contours of her imprisonment, in particular, the racist and misogynistic treatment she endured that led to her physical and psychological deterioration.³³ The state facilitated Shakur’s physical deterioration by denying her adequate medical attention and exercise, which was particularly devastating as Shakur attempted to regain mobility in her hand after her gunshot wound.³⁴ Physical and psychological terror manifested through vaginal and anal strip searches, twenty-four hour lighting and surveillance, the withholding of reading materials, and extended time in solitary confinement.³⁵ Although Shakur recounts many harrowing details of her incarceration in her autobiography, her attorney, Lennox Hinds, insists that she “understates the awfulness of the condition in which she was

incarcerated.”³⁶ For instance, Shakur would “forget how to talk” after extended periods of solitary confinement.³⁷ The literal silencing of Shakur not only demonstrates the state’s interest in destroying political activists who fought for the liberation of black people in the United States, it foreshadowed some of the physical and psychological abuse regimes that would emerge in the 1980s.

In addition to day-to-day abuses, the BOP repeatedly, and often inexplicably, transferred Shakur between county and municipal jails, as well as state and federal prisons.³⁸ The effect of these transfers stripped Shakur’s life of continuity, and interrupted her legal counsel as attorneys scrambled to find their client who, unbeknownst to them, had been moved.³⁹ Shakur’s transfers took her to a range of carceral institutions. She became the “first, and last, woman ever imprisoned” at the Middlesex County jail in New Jersey, and was among the first group of women to be incarcerated in Davis Hall at the Federal Reformatory for Women at Alderson, West Virginia.⁴⁰ Opened in 1978, Davis Hall served as the prison’s maximum-security unit (MSU) and housed “the most dangerous women in the country.”⁴¹ This unit, however, would not remain open for long. Emily Thuma’s scholarship documents that “ACLU staffers. . . grassroots activist and several of the unit’s former prisoners, mounted enough public pressure to shut down the unit later that year.”⁴² Upon the close of Davis Hall in February 1979, Shakur was transferred to the Clinton Correctional Institution for Women in New Jersey.⁴³ By the time she reached Clinton, Shakur faced charges for seven criminal incidents ranging from robbery and armed robbery to kidnapping, attempted murder, and murder.⁴⁴

Of the seven cases brought against Shakur between May 1973 and November 1977, three were dismissed, and three resulted in an acquittal. The charges that stuck, however, hinged on flimsy evidence produced in the aftermath of the New Jersey Turnpike shooting. Despite the fact ballistics evidence failed to prove Shakur fired a gun, she was convicted of eight counts of first- and second-degree murder, several counts of assault, as well as illegal possession of a weapon and armed robbery on March 26, 1977.⁴⁵ Shakur received a life sentence plus sixty-five years.⁴⁶

After a particularly painful visit with her mother and four-year-old daughter in 1979, Shakur simply recalls that it was “time to leave.”⁴⁷ On November 2, 1979, Shakur escaped from Clinton’s maximum-security unit in the middle of the afternoon with the help of four BLA accomplices. The *New York Times* reported that three men posing as Shakur’s visitors took three guards hostage at gunpoint, commandeered a prison van, and drove Shakur just beyond the prison’s borders, where “another confederate was waiting” with two getaway cars.⁴⁸ At that point, the group of five split themselves between the two cars and drove toward Interstate 78. According to the *Times*, “roadblocks were set up, but the escapees eluded police.”⁴⁹ From that point forward, Shakur remained underground until surfacing in Cuba as a political asylee in 1988.

The success of Shakur’s escape was cause for international celebration in the black community. As Dan Berger notes, “Assata’s liberation from prison was a bold move that countered FBI and police claims to have ‘broken the back of the BLA.’”⁵⁰ That Shakur successfully escaped from prison—in the middle of the day, no less—sent a powerful message of strength in spite of the efforts the state took to secure Shakur and immobilize the BLA over the course of her incarceration.⁵¹ Springing Shakur from jail,

however, prompted a major unintended consequence: it justified the need for intensified security measures in women's prisons. If, just months earlier, activists successfully dissolved the Bureau of Prison's maximum security unit at Alderson on account of its constitutional violations, Shakur's escape legitimized the BOP's decision to use punitive, allegedly "precautionary" tactics to secure other political prisoners.⁵²

News of Shakur's escape immediately spread to prisons incarcerating political women. When the news reached Alderson, prison administrators immediately relocated Rita Bo Brown to administrative detention in light of "the escapes of [John] Sherman and Shakur and concern over a possible attempt to forcibly effect [Brown's] removal from Alderson." The decision to subject Brown to "maximum security conditions" and solitary confinement was steeped in pure suspicion. As Brown recalls, a prison administrator simply believed that Shakur was "coming to get" her. Court documents reveal that Alderson administrators identified Brown as an escape risk for four reasons. The Alderson administration pointed to several characteristics that Brown and Shakur had in common: (1) Shakur and Brown were friends, (2) were both considered model prisoners, and (3) received seven to nine mutual visitors at Alderson. The fourth justification for Brown's security reclassification rested on the fact that the recently escaped John Sherman was an associate of Brown's in the George Jackson Brigade, leading prison administration to believe Brown might be sprung next. Brown's response to the administrator's concerns regarding her communication with Shakur—"you know, she called me last night and said you really are a stupid mother fucker"—is Brown's sarcastic way of emphasizing the state's willingness to overdetermine her relationship with Shakur to justify her increased security. Upon her relocation to administrative

detention, Brown challenged the constitutionality of her confinement by suing Alderson's warden, Kenneth R. Neagle, several BOP administrators, and the U.S. attorney.⁵³

The order issued by West Virginia District Judge Dennis R. Knapp acknowledged the court's "difficult position" in this case. According to Knapp, the court needed to maintain some degree of deference and balance "the legitimate concerns of the respondent [the prison administration] with the constitutionally guaranteed rights of the petitioner [Brown]." Ultimately, Knapp did not end Brown's administrative segregation. The Nixon appointee acknowledged that the Alderson administration's treatment of Brown treaded "the razor's edge between constitutionally permissible and impermissible action," but the order he issued ultimately empowered prison officials to make similar decisions in the future. Rather than return Brown to the general prison population, Knapp transformed her administrative detention into a "constitutionally reasonable" circumstance by improving several conditions of her confinement. Knapp outlined guidelines that restored Brown's ability to attend educational and vocational classes, and reemphasized her right to "adequate diet, hygiene, exercise, and medical treatment." In addition, Brown's ability to access visitors and her attorneys could be "no different than the treatment afforded to any other prisoner in administrative detention."⁵⁴

Knapp's order may have demanded that the Alderson administration make changes, but it also empowered the BOP to further justify their decision to proactively segregate political prisoners like Brown from the general population. For instance, Knapp acknowledged that

[t]he petitioner cannot remain in administrative detention merely on the respondent's good faith belief that she might be an "escape risk." Due

process and essential fairness demand that the respondent have credible evidence upon which to base a reasonable belief that the petitioner or, in this instance, someone else intends to effect her escape.

In acknowledging that the Alderson administration established only a “tenuous link” between Brown and Shakur and Sherman’s escapes, Knapp’s order demanded that Alderson administrators find a more credible reason to serve as the basis for Brown’s segregation. Knapp ordered Alderson administrators to provide Brown with weekly reports concerning the “changes or lack of changes in her status” in administrative segregation, but what information the administration considered “credible” remained open to internal interpretation. Shared political affiliation was not, in the eyes of Knapp, a sufficient reason for Brown’s segregation, but this determination simply led Alderson officials to find a new rationale to justify their action against Brown.⁵⁵

The proactive measures taken to secure Brown in the aftermath of Shakur’s escape established a troubling precedent. Despite maintaining a spotless record in prison, one could still be punished on account of another individual’s actual or hypothetical actions. In the era of COINTELPRO and disinformation campaigns targeting political prisoners, it was not difficult to imagine prison administrators finding ways to credibly justify Brown’s administrative segregation. While it is unclear how many other women political prisoners were subjected to increased security measures after Shakur’s escape, Brown’s experience points to the way other institutions feared that the BLA—or any other leftist revolutionary group—might take similar action to defeat prison security and spring political prisoners. In the following sections, I suggest that Shakur’s escape, when paired with the rise of leftist revolutionary action in the 1970s, created the context that

would prompt the BOP to shift their carceral tactics. The following section outlines how throughout the 1970s, law enforcement agencies evolved COINTELPRO into a counterterrorism regime that functioned to transform the “leftist woman revolutionary” into the “female terrorist.” As we will see in the final section, the creation, and subsequent incarceration of the female terrorist, urged the BOP to open a prison unit specifically designed for the nation’s most dangerous women.

“One man’s terrorist is another man’s freedom fighter”: From COINTELPRO to Counterterrorism

The social movements of the late 1960s produced a shift in radical organizing that embraced revolutionary violence as a means of protesting the state. Organizations like the Student Nonviolent Coordinating Committee (SNCC) largely advocated for peaceful protest in the face of persistent and gratuitous racial violence, but leaders such as Robert F. Williams, Malcolm X, and later Stokely Carmichael promoted a politic of self-defense that gave birth to a new revolutionary movement within the broader context of civil rights. In 1966, the “cutting edge of the Black Power movement” emerged in Oakland, California as the Black Panther Party for Self-Defense.⁵⁶ Protecting black communities from police violence was among BPP’s top priorities, but they also challenged the state by establishing a number of community self-defense programs, in addition to a Ten Point Program that outlined the black community’s demands for racial equality and justice. The extent to which the BPP threatened the state is evident in FBI director J. Edgar Hoover’s response. By 1969, Hoover considered the BPP to be “the greatest threat to the internal security of the United States,” and deployed COINTELPRO to destroy the party by using legal and illegal surveillance and infiltration tactics.⁵⁷ As the

BPP struggled to maintain a sense of order in the midst of unprecedented levels of state-sponsored violence and repression, the call for self-defense, as Bryan Burrough suggests, rapidly accelerated from “‘struggle’ to ‘resistance,’ to ‘Black Power,’ to revolutionary and guerrilla warfare and death.”⁵⁸

A desire to engage in increasingly militant action against the state emerged within the BPP. This escalation was not without fault lines, and ultimately separated the more militant East Coast panthers from the West Coast leadership in Oakland. According to Assata Shakur, “the concept of the BLA arose because of the political, social, and economic oppression of Black people in this country. And where there is oppression, there will be resistance.”⁵⁹ The tension within the BPP was exacerbated by the indictment of twenty-one Panthers in New York on April 2, 1969. By the time the Panther 21 trial concluded and all individuals acquitted from charges in 1971, “several members of the Panther 21 went underground, convinced by experience that the government intended to crush radical aboveground organizing in Black communities.”⁶⁰ Indeed, COINTELPRO actions were effectively annihilating black radicals: “27 Panthers were murdered and 749 arrested in 1969 alone.”⁶¹ Different from the Panthers, the BLA emerged in order to “promote revolutionary Black Nationalism and exact a material cost from the state for its continued repression of Black people.”⁶² Acting as a guerrilla army, the BLA retaliated against police, robbed banks to raise money, and drove drug dealers out of the black community.⁶³ In the eyes of the BLA, the violence they inflicted upon others was not only necessary, but fundamentally rooted in a revolutionary pursuit of black liberation. Indeed, what the state would soon consider to be acts of terror would be a fight for freedom for others.⁶⁴

At a time where numerous social movements, including the civil rights movement, women's liberation, gay liberation, and the anti-war movement overlapped, organizations like Students for a Democratic Society (SDS) grew increasingly aware of the way U.S. imperialism and capitalism intersected with white supremacy at home and abroad. The Black Power movement would ultimately challenge white leftists to leave black organizations and independently organize in white communities. As Berger explains, leaders in the black community—especially SNCC leadership—called on white people to “confront white supremacy in their own communities” so that black people could “organize for self-determination.”⁶⁵ The separation of white leftists from black leftists established a source of solidarity that allowed both groups to work toward similar goals within their respective communities. For example, SDS initially formed as an anti-war group, adopted a distinctly anti-racist position that established “solidarity with the Black movement as a cutting edge issue.”⁶⁶ Likewise, the civil rights-oriented SNCC helped anti-war organizing by offering a racial analysis of the Vietnam War.

The Weather Underground Organization emerged in 1969 as the result of a split within SDS as the organization attempted to transition from “resistance to revolution.”⁶⁷ In 1968 the future of SDS's commitments were up for debate: some members demanded that anti-racist organizing be the group's first priority, while others minimized racial difference in favor of organizing solely around class struggles and labor.⁶⁸ The founding WUO document, “You Don't Need a Weatherman to Know Which Way the Wind Blows,” emerged in a 1969 issue of SDS' *New Left Notes*, and called for a “‘white fighting force’ in alliance with anti-colonial struggles, especially the Black Liberation Movement in the United States, and focused heavily on white working class youth as

agents for change, when aligned in solidarity with the national liberation movements.”⁶⁹ Members of the newly formed WUO were inspired by revolutionary action, and engaged in “militant demonstrations, tried to organize working class whites against imperialism . . . and did minor acts of property destruction” in an attempt to inspire their white working class peers and recruit new membership.⁷⁰ The WUO’s actions—ranging from planned actions like the Days of Rage to symbolic bombings of government property—earned them the reputation as the “most violent, persistent and pernicious of revolutionary groups.”⁷¹ The WUO’s violent actions were not intended to harm civilians, but instead state actors who actively perpetuated violence against the black community. In spite of attempts to recruit a critical mass of white people to engage in revolutionary action, aboveground organizing grew increasingly difficult as the FBI and law enforcement issued warrants for the arrest several WUO leaders. In response, the organization slipped underground, turning their attention to clandestine bombings and other actions that targeted state property.

The FBI’s attempt to “neutralize” leftist political dissidents depended upon tactics such as wire taps, bugs, and mail surveillance. A wide range of political organizations fell under the purview of COINTELPRO surveillance. In addition to organizations like the BPP and the lesbian feminist targets outlined in chapter two, the FBI took action against virtually every active leftist social movement including the Communist Party, USA, the Socialist Workers Party, the Puerto Rican Independence Movement, the American Indian Movement, as well as the Black Liberation Movement and the New Left.⁷² COINTELPRO tactics were ruthless. The COINTELPRO-instigated murders of Black Panther leaders, for instance, sparked outrage among leftist groups, especially after Fred

Hampton, Chairman of the Chicago BPP, was drugged by an FBI informant just hours before a planned police raid administered by the Chicago Police Department on December 4, 1969.⁷³

The FBI's approach to dissident groups would undergo a dramatic evolution in the 1970s after news of COINTELPRO surfaced. On March 8, 1971, the Citizen's Commission to Investigate the FBI stole a number of documents from a Pennsylvania FBI office.⁷⁴ The documents unearthed details about COINTELPRO, a report of which appeared on the front page of the *Washington Post* on March 28. The key finding revealed that the FBI surveilled a number of "campus and black activist organizations," including the BPP and "other extremists."⁷⁵ In the midst of mounting political pressure, FBI Director J. Edgar Hoover issued a "termination memo" on April 21, 1971 that technically dissolved COINTELPRO investigations. While the FBI maintains that the COINTELPRO program ended in 1971, evidence suggests that the bureau *increased* the use of "warrantless bugging and wiretapping" from 1972-1974.⁷⁶ According to Ward Churchill and Jim Vander Wall, "the reality of COINTELPRO's continuation was masked not only behind the dropping of the descriptive title, but a retooling of the terminology utilized to define its targets as well."⁷⁷ Those initially recognized as leftist political dissidents would quickly be categorized as domestic terrorists in the eyes of the FBI.

Conceiving of dissident groups as "terrorists" helped the FBI legitimize the political policing of citizen groups. Evidence suggests that the FBI reimagined dissident groups as "terrorists" as early as 1972. In the February 1972 issue of the *FBI Law Enforcement Bulletin*, an article entitled "The Police Officer: Primary Target of the

Urban Guerrilla” explicitly pointed to the “Eldridge Cleaver Panther Faction” (an early articulation of the BLA) and WUO as examples of urban guerrilla organizations.⁷⁸ In defining urban guerrilla warfare as “secret and planned activity designed to disrupt and/or terrorize the ‘establishment’ or Government,” the FBI established a criteria for revolutionary action that included “the expropriation of money, guns, and explosives to further revolutionary goals” that would serve as evidence of terrorist activity.⁷⁹ Despite, then, the 1971 moratorium on COINTELPRO activities, FBI documents included in Churchill and Vander Wall’s collection of COINTELPRO papers reveal that “terrorists” would remain prime targets for unwarranted surveillance. For example, a telegram dated April 12, 1972 urged special agents in Albany, New York, to “insure that every effort is being made to effectively identify, investigate, and control urban guerrilla terrorists in this country.”⁸⁰ Although several right-wing terrorist groups occupied the FBI’s attention, the Bureau’s attention on “urban guerrilla organizations” advanced the belief that leftist revolutionary groups were considered the most dangerous perpetrators of domestic terrorism in the United States.⁸¹

Throughout the 1970s, clandestine revolutionary groups like the Symbionese Liberation Army (SLA) and Fuerzas Armadas de Liberación Nacional joined the BLA and WUO in taking revolutionary action against the state. While the ideologies driving each group varied, they used similar tactics, ranging from bank robberies and kidnapping, the killing of police officers, to the bombing of public and private property. Often, the revolutionaries perpetrating violence situated their actions as retaliation to state-sanctioned violence, including acts of violence the state took against fellow revolutionaries. For example, when law enforcement launched an attack against a SLA

hideout on May 17, 1974, a live television broadcast captured the state using “tear gas, then fire bullets, and finally. . . an incendiary device” upon the house containing several SLA members.⁸² Although the WUO was critical, at times, of the SLA, they responded to the televised murder of six by bombing the California Attorney General’s office.⁸³ In the midst of persistent government attacks, small revolutionary groups like the SLA could only exist briefly before being annihilated. Larger groups like the WUO fractured into smaller subgroups and were protected by aboveground allies. The WUO, however, would undergo political restructuring several times, resulting in aboveground groups like the PFOC and the underground M19.

Throughout the 1970s, FBI attempts to find clandestine revolutionary groups proved difficult. Their task grew more complicated when, in 1974, Congress passed the Freedom of Information Act (FOIA). According to a Homeland Security case study on surveillance techniques and the FALN, the intelligence community was forced to

dismantle its domestic intelligence units. . . [and] . . . could no longer conduct warrantless searches or wiretaps in the name of national security, nor use informants unless there were allegations of criminal activities. The only available means to gather intelligence at this early stage of the [FALN] investigation, was through physical surveillance of potential suspects.⁸⁴

While FOIA proved to be a tremendous setback for FBI agents, the new regulations ultimately forged new, more expansive surveillance techniques as law enforcement continued to pursue clandestine revolutionaries. For example, when faced with the task of finding the ever-active FALN—who carried out more than 120 attacks between 1974 and

1981—physical surveillance proved remarkably ineffective between 1974-1980.⁸⁵ Only after the FBI gained access to a “flipped” FALN member were they able to make headway in locating and surveilling FALN activity. The human power required to effectively surveil the FALN ultimately led to the formation of Joint Terrorism Task Forces. According to Mathieu Deflem, the first JTTF was formed in New York in response to “domestic terrorism from ethnonationalist groups.”⁸⁶ Acting as a “force multiplier,” the JTTF initially recruited New York police and detectives to serve FBI ends by “following up on information and leads, gathering evidence, collecting intelligence, and making arrests.”⁸⁷ In extracting the power of multiple law enforcement agencies, JTTFs were able to better conceal the FBI’s mission while expanding their depth. In conjunction with intelligence gleaned from a flipped informant, the FBI finally infiltrated the FALN’s “sophisticated counter-surveillance techniques” that, for years, kept law enforcement at bay.⁸⁸

Successful JTTFs depended upon cooperation and collaboration among various law enforcement agencies ranging from the Secret Service to state police. The information gleaned in the aftermath of arrests, however, was invaluable to law enforcement in their attempts to neutralize domestic terrorists. For example, much of the FBI’s success in annihilating “domestic terrorists” in the 1980s took place after the failed Brink’s Robbery in 1981. On October 20, six revolutionaries from the BLA and M19 robbed an armored car in Nyack, New York. More than \$1.5 million dollars were stolen, but the robbery failed tremendously in lieu of the subsequent police chase. After leaving one Brink’s guard dead and two wounded, the revolutionaries split up between two cars and headed toward the highway. The *New York Times* reported that one car “opened fire

on several police officers and detectives who had stopped them at a roadblock at an entrance to the Gov. Thomas E. Dewey Thruway,” killing two police officers and wounding one.⁸⁹ In spite of the heavy gunfire, law enforcement captured four of the six, including BLA member Samuel Brown, and M19 members Judith Clark, Kathy Boudin, and David Gilbert. Within days of the initial Brink’s arrests, law enforcement killed the remaining two robbers at large, Sekou Odinga and Mtayri Shabaka Sundiata, and made dozens of other arrests in the New York area.⁹⁰ According to Dan Berger, individuals who “had personal or political ties to radical movements or the people involved,” were the targets of more than 1,000 FBI agents who formed a JTTF with NYPD in the hours following the robbery.⁹¹ Confident in their new approach to clandestine radical groups, the FBI claimed that “within a week of the Brink’s incident” they had “found links among the Weather Underground, the Black Liberation Army and the Black Panther Party, and . . . possible connections with the FALN.”⁹²

Between 1980 and 1985, law enforcement rounded up eleven women affiliated with clandestine revolutionary groups by way of self-surrender or arrest. In court, leftist women engaged in political violence were “viewed as aberrant and ‘less than a woman,’” and thus perceived as more deserving of long-term sentences that could potentially result in life in prison.⁹³ Refusing to play by the rules of the U.S. justice system only further exacerbated the understanding of female terrorists as particularly unhinged individuals. For example, the M19 women involved in the Brink’s Robbery used two dramatically different legal strategies that resulted in dramatically different results. Judith Clark, who was tried alongside two male co-defendants, deployed an untraditional legal defense that situated one co-defendant as a prisoner of war, while Clark and the other co-defendant

argued that they were as allied political prisoners.⁹⁴ Due to the fact “international law [was] supposed to supersede national legal proceedings,” the three attempted “to be tried as political combatants in an international court under UN jurisdiction.”⁹⁵ This strategy was completely and utterly ignored in U.S. court. All three received sentences of seventy-five years to life for triple murder. Compared to Clark, Kathy Boudin fared substantially better after deploying a traditional legal strategy and taking a plea bargain. She received twenty years to life for her role in the Brink’s Robbery.

The arrest and sentencing of Silvia Baraldini (BLA), Alejandrina Torres (FALN), and Susan Rosenberg (M19) in 1983, 1984, and 1985, respectively, often resulted in maximum sentences for first-time convictions. Baraldini, for example, received a total of 43 years: “maximum time” of 40 years for a Racketeering Influence Corrupt Organizations (RICO) charge, and three additional years for criminal contempt in refusing to testify before a grand jury investigating the Puerto Rican independence movement.⁹⁶ As a “terrorist” convicted of conspiring to break Assata Shakur from jail and participating in the larger project of “waging armed actions in the name of ending [the] oppression of Black people within the U.S.,” Baraldini represented the type of conspicuous foreign national whose conviction was a “closed question.”⁹⁷ Like Baraldini, Alejandrina Torres represented a faction of the Puerto Rican independence movement that threatened the state’s security. She received twenty years, the maximum sentence for seditious conspiracy, and an additional fifteen years for “bomb and weapons violations,” though the state failed to prove that Torres was, in fact, a member of the FALN.⁹⁸

Susan Rosenberg fared similarly to Baraldini and Torres. Law enforcement believed that Rosenberg, a white Jewish woman, was associated with almost every major

group and action in the late 1970s and early 80s, including the FALN, BLA, and “other terrorist groups,” in addition to actions like Assata Shakur’s escape and the Brink’s robbery.⁹⁹ As a result, Rosenberg and her co-defendant received the maximum sentence for a first time weapons charge that amounted to 56 years. Writing in the *The Nation*, William Reuben and Carlos Norman took note of the particularly long sentences that leftist revolutionary women received. “Although neither [Torres or Rosenberg] were convicted of committing acts of violence,” they wrote, “each received an unusually harsh sentence. Rosenberg’s term is sixteen times longer than the average sentence meted out to weapons-possession offenders, and twice the 1985 average for *first-degree murders* in the Federal courts.”¹⁰⁰ In pointing to the fact that Rosenberg’s first-time weapons charge resulted in *double* the time of a *murder* charge, Reuben and Norman addressed the ways a prison sentence could act as a method of counterinsurgency. Even in the absence of open-ended, “to life” sentences, revolutionary women received sentences, often without parole, that could keep them behind bars for the rest of their lives.

One of the last major arrests to come out of the Brink’s affair took place on May 11, 1985, when law enforcement arrested Marilyn Buck and Linda Evans in Dobbs Ferry, New York.¹⁰¹ While Buck and Evans’s arrest would lead authorities to arrest Laura Whitehorn in Baltimore, the local JTTF surveilling Buck and Evans did not procure the “remaining Brink’s robbery fugitives or other suspects” that authorities hoped to locate.¹⁰² Although Buck would be convicted in 1988 for her role in the Brink’s robbery, law enforcement had rounded up half of the individuals that made up the “Resistance Conspiracy Case.” Together, Buck, Evans, and Whitehorn were accused, alongside four others including Rosenberg, of bombing the U.S. Capitol and three Washington D.C.

military buildings in 1983.¹⁰³ The Resistance Conspiracy case would not go to trial until 1990, but the three women faced no chance of bail. Assistant U.S. Attorney Patricia Williams requested that Buck be held without bail because she failed to return to the Alderson Federal Prison after receiving a furlough to visit her attorney in 1977; Evans was similarly identified as a flight risk due to the fact she harbored Buck.¹⁰⁴ Whitehorn was held under “preventative detention” and denied bail, although her record showed “no previous criminal charges and only three arrests for demonstrating against the Vietnam War and forced sterilization.”¹⁰⁵ Several rounds of sentencing would take place at different times for Buck, Evans, and Whitehorn, resulting in lengthy sentences for each woman. Buck, initially sentenced to ten years in 1973 for “acting as a gun runner for the Black Liberation Army,” received 50 years for her involvement in Shakur’s escape and the Brink’s robbery, and an additional ten years for her involvement in the Resistance Conspiracy case.¹⁰⁶ Evans’s sentences totaled to 40 years: 35 years for illegal gun purchases, and an additional five “for her role in the bombing conspiracy.” Whitehorn received 20 years for the Capitol bombing. After Assistant U.S. Attorney Margaret Ellen emphasized in court that “the defendants Linda Evans and Laura Whitehorn are terrorists,” their lengthy sentences could hardly come as a surprise.¹⁰⁷

Domestic terrorism in the 1980s drew attention to sentencing disparities for those convicted on the left and the right. While members of the BLA, M19, FALN, and other clandestine revolutionaries faced decades long sentences, right-wing terrorists seemed to face remarkably less severe punishment. Writing in 1990, Elizabeth Fink emphasized the public perception of differential treatment, specifically with regard to the sentences given

to right-wing terrorists who bombed abortion providers. Citing the 1984 Christmas Day abortion clinic bombings in Pensacola, Florida, Fink argued that

the disparity of sentencing between the right wing and the left wing in this country is well known. . . If you bomb a series of abortion centers in Florida, and you stand up in court and say, “I’m proud of what I did,” you are going to get five years and your wife will receive probation. If you do the most outrageous of criminal offenses and you are a member of the right wing, you are going to get out of prison.¹⁰⁸

From Fink’s perspective, right-wing terrorists like Mathew Goldsby, James Simmons, Kathy Simmons, and Kaye Wiggins benefitted from their political affiliations in the form of light sentences, fueling the belief that conservatives could evade harsh punishments for politically motivated crimes.

A closer evaluation of sentencing disparities among right wing and left wing terrorists draws attention to the significant relationship between gender, political ideation, and punishment. Brent L. Smith’s 1994 study of domestic terrorism in the United States reviewed a number of 1980s sentences corresponding to members of domestic U.S. terrorist organizations, including members from the right-wing groups such as the Aryan Nations, Ku Klux Klan, and The Order, and leftist groups including the FALN, M19, and the United Freedom Front. Of the 165 individuals indicted for acts of terror throughout the 1980s, Smith’s study documents that the majority—103 individuals—identified as members of right-wing groups.¹⁰⁹ In addressing the question of differential sentencing, Smith concludes that “while the conviction rate for leftists (77 percent) was slightly higher than for rightists (70 percent),” the sentences given to convicted terrorists “were

almost identical.”¹¹⁰ Smith’s research may dispel Fink’s general claim of differential sentencing, but it does reveal the way political affiliation influenced the sentences women received. Smith’s study found that “female members of right-wing groups were much less likely to be arrested, indicted, and convicted. Those who were convicted received less severe sentences than left-wing terrorists. . . left-wing female terrorists received sentences equal to those given to male terrorists.”¹¹¹ While it is difficult to assess the degree to which the figure of the leftist female terrorist fueled “the view of the terrorist as universally leftist and Marxist,” Smith affirms the existence of a cultural bias against the left that has “permeate[d] not only the news media but has left its mark upon academic studies of terrorism.”¹¹² This bias against the left must be understood to be inclusive of feminist politics that complemented revolutionary fights against racism, imperialism, and capitalism.

In the wake of widespread patriarchal and misogynistic bias, feminism, in the words of Gilda Zwerman, “made its mark—for the worse” by perpetuating the belief that leftist revolutionary women were “amazons” who required “new and expanded security measures to contain them.”¹¹³ This belief was staunchly reinforced by the fact that the state believed that several of the women in custody aided in Assata Shakur’s notorious escape. The new accumulation of domestic female terrorists created the circumstance in which the BOP could experiment with a new carceral technology for the nation’s most dangerous women, resulting in a new high security unit for women in Lexington, Kentucky. As I demonstrate in the following section, the Lexington HSU’s brief, 21-month existence would deploy a new set of cruel and unusual conditions of confinement that treated female terrorists as “pure evil” that must be destroyed.¹¹⁴

Locking up the Left: The Lexington High Security Unit

The task of confining domestic female terrorists posed entirely new problems for the BOP. From the perspective of one alleged counter-terrorism insider, publishing under the pseudonym “Gayle Rivers,” female terrorists were a new breed.¹¹⁵ According to Rivers, leftist female terrorists were a group of predominately white, “spoiled, well-educated women from so-called good backgrounds who are turned on by aggressive acts. . . they soon enough become single-minded bitter killers. . . [the female terrorist] lives in a world of violence that was long thought to be a male preserve. Therefore, there is great pressure for the female terrorist to keep proving herself.”¹¹⁶ Rivers’s analysis of female terrorists queered the women of the radical left—especially privileged, white women with access to higher education—by suggesting that violence was the expression of a pathological sexual urge. In turning to biological determinism to account for the “natural” occurrence of violence perpetrated by men, Rivers situated patriarchal claims to violence as the reason female terrorists attempted to do violence better than men. Thus, in presenting the white, wealthy, and well-educated female terrorist as a queer subject who transgressed the gender binary and derived sexual satisfaction from violence, Rivers suggested that female terrorists were “less than human, [and] by definition not eligible for ‘rehabilitation.’”¹¹⁷ Rivers need not invoke stereotypes such as the angry feminist or the man-hating lesbian to convey to his audience that female terrorists were more threatening, more dangerous, and more extreme than male terrorists.

The Lexington High Security Unit can be understood as the BOP’s response to the myriad security problems specifically posed by the female terrorist. Mainstream and anti-prison media alike reported news of the unit’s development when it reached the

public in the fall of 1985, one year before the unit's anticipated opening. The *Lexington Herald-Leader* reported basic details about the HSU, including the BOP's renovation plans, and the development of the basement unit that would be reserved for up to "16 women with *assaultive* backgrounds" from the women's federal prisons in Alderson, WV, and Pleasanton, CA.¹¹⁸ *The Insurgent*, however, contested the language of "assault" by arguing that the BOP was attempting to hold the "most militant and revolutionary political prisoners in special 'maximum-maximum' security units, to isolate them from the general prison population, from the community[,] and from one another."¹¹⁹ In underscoring some of the anticipated features of the new HSU, *Insurgent* writers cited the men's federal penitentiary in Marion, Illinois, which in 1978 emerged as the country's first level-six prison. This unit enforced a solitary confinement regime that kept "prisoners in their cells 23 hours a day with few personal belongings, denied all work and educational programs, fed cold and inedible food in their cells, and denied all contact visits. Random beatings and forced rectal searches [were] common."¹²⁰ Davis Hall at the Federal Reformatory for Women at Alderson, West Virginia opened that same year and engaged in similar tactics, including sensory deprivation techniques before it closed in early 1979. As reported by *The Insurgent*,

when someone is housed in a cell that shuts out all normal input, the government hopes that they will lose their bearings, go insane, and even commit suicide. At the very least, it is hoped that they will renounce their political principles—go to their jailers and offer to do anything to be released from their terrible conditions.¹²¹

Whether referred to as sensory deprivation, behavioral modification, or torture, critics of these techniques acknowledged their role in punishing prisoners on the basis of standing up to state power.

Despite BOP spokespersons' efforts to dismiss early allegations that women from the radical left would be sent to the HSU, Susan Rosenberg and Alejandrina Torres were the first to be transferred to the HSU when it opened in late October 1986. Upon their arrival, the women disappeared into a completely artificial world where "the things we take for granted as basic components of human existence—natural light, fresh air, color, sound, human contact, various smells—were conspicuously, intentionally, absent."¹²² Rosenberg and Torres lived in an isolated, all white-unit with 24-hour florescent lighting and "cameras [that] continuously surveyed the stagnant air conditioned cells."¹²³ Within the HSU, Rosenberg and Torres experienced constant surveillance: "their actions and spoken words were written down by male guards, who also observed them taking showers and sitting on the toilet."¹²⁴ Worse, the women endured at least one daily strip search upon reentering the unit after their recreation hour.¹²⁵

The twenty-four hour physical surveillance of the inmates, however, composed only one element of the HSU. The BOP placed significant limitations upon written communication and physical visits, likely on account of the fact that the men who sprung Shakur from prison were on her visitation list.¹²⁶ The BOP consequently limited physical visitations to immediate family, required all visitors to be photographed, and were capped at ten hours a month.¹²⁷ Inmates could correspond with immediate family, but were required to provide prison administration with a list of up to fifteen names in order to correspond with friends.¹²⁸ Torres, in particular, recognized how the state's

communication restrictions made family and friends vulnerable to state surveillance. In refusing to submit a list of friends to communicate with, Torres prioritized the safety of her community over maintaining lifelines to the outside world.¹²⁹

In January 1987, the BOP transferred its third “terrorist,” Silvia Baraldini, to the HSU, which only reinforced the belief among critics that the HSU was specifically created for the female terrorist. Similar to Rita Bo Brown’s “administrative segregation” at Alderson in the aftermath of Assata Shakur’s escape, activists argued that leftist revolutionaries were “sent to Lexington not because of any particular act or behavior but because [their political affiliations suggested that] unnamed persons might attempt, at some unspecified time in the future, to help them escape.”¹³⁰ The BOP rejected this claim, insisting that the unit was designed for “women prisoners who [were] considered highly dangerous and escape-prone,” but seemed well aware of the HSU’s optics.¹³¹ According to Jan Susler, the BOP’s “apparent concern for the transparent political nature of the HSU” prompted the subsequent transfer of two “social prisoners” to the unit whose crimes were not associated with any particular political ideology or party.¹³² By March, 1987, Debra Brown arrived to the unit to serve “federal time” for kidnapping charges, but was considered a security risk on account of the fact she was sentenced to “two life sentences” and faced “two death penalties for murder convictions at the state level.”¹³³ Silvia Brown (no relation to Debra) was sentenced to prison for robbery convictions, and fit the criteria for the HSU on account of her “history of escape.”¹³⁴

As the HSU captivated the attention of human rights activists, the BOP’s attempt to obscure the acutely political nature of the unit failed on two accounts. First, claims of inmate abuse that spread throughout the community made it impossible to argue that the

HSU's living conditions were merely adjusted to provide enhanced security for the women assigned to the unit. Within six months of the HSU's existence, Amnesty International "determined that the allegations of human rights violations met its criteria" and sent "a letter of inquiry to federal prison officials."¹³⁵ The ACLU's visit to the HSU confirmed Amnesty International's fears. In July 1987, ACLU attorneys visited the HSU alongside prison psychologist Dr. Richard Korn.¹³⁶ Korn's initial report, issued in August 1987, indicated that the ACLU "found the unit's five prisoners subjected to unnecessary strip searches, constant surveillance even while showering and inadequate medical care."¹³⁷ Korn's evaluation of the psychological effects of the unit were especially damning: he argued that the HSU found ways to "depersonalize and deny individuality" by denying the women "personal touches" to their appearance or their living space—a strategy that instigated the "denial of personal initiative, tending toward enforced dependency and infantilization."¹³⁸ The HSU deployed a number of tactics meant to humiliate its inhabitants, for instance, requiring women to ask for sanitary napkins one by one.¹³⁹ Korn further cited Torres and Rosenberg's experiences of sexual violence at MCC, Tuscon, in which the women experienced "forced and unnecessary vaginal and anal examination by male staff."¹⁴⁰ "The effect of this process," according to Korn, "is that even women who have not actually suffered the reported abuse experience it psychologically both in prospect and retrospect as a permanent possibility."¹⁴¹ The creation of a terrifying environment for female terrorists did not, in fact, lend itself to an enhanced security strategy, but instead mobilized a gendered form of punishment that targeted leftist political ideologies.

In forcing leftist revolutionaries to live amid terror-inducing conditions, the HSU used physical and psychological trauma as a form of behavioral modification meant to inspire terrorists to renounce their political affiliations. The political implications of ideological reconditioning tactics were difficult to dispute, especially in the aftermath of first-hand accounts from HSU prisoners. According to the ACLU's report, "most of the women [had] been told they [would] remain in the unit until they are released from prison," but "one of the political women report[ed] being told she would be released from the unit when she changes her affiliation."¹⁴² Rosenberg, Torres, and Baraldini did not, however, elect to refute their political beliefs as a way out of their confinement. Even in event they pursued that path, it would have been difficult, if not impossible, to satisfy the BOP's alleged requirements for "release" from the HSU. Korn's report highlighted this conundrum, in that "entry into nor exit from the facility is something for which the offender herself is responsible. . . . There is some vague hope held out to the prisoner who professes some willingness to 'change her associations.' But this language does not inspire confidence because it does not specify the criteria according to which her good intentions can be tested."¹⁴³ In pointing to the fact there was no litmus test by which one's associations could be assessed, leftist revolutionary women would be confined within the HSU until the BOP altered *their* perceptions of the women's political affiliations. This created, as the International Tribunal on Political Prisoners and Prisoners of War in the U.S.A. claimed, an "indefinite length of stay in the Unit," to which political women remained uniquely vulnerable.¹⁴⁴ The indeterminate nature of Baraldini, Rosenberg, and Torres's confinement exacerbated the inescapability of the HSU's physical and psychological terrors. One unnamed inmate in Korn's initial report

even argued that the BOP was “tying to kill us. But they’d rather we kill ourselves.”¹⁴⁵ Indeed, the HSU’s behavioral modification regime may have failed to produce political renunciation among inmates, but it succeeded in destroying the women’s physical and psychological health. Korn’s initial assessment of the HSU detailed that the women incarcerated in the unit experienced claustrophobia, chronic rage reaction, low to severe depression, hallucinations, and defensive psychological withdrawal.¹⁴⁶ Physical symptoms included loss of appetite, weight loss, physical malaise, dizziness, heart palpitations, and the exacerbation of pre-existing medical conditions.¹⁴⁷

The ACLU’s report prompted a meeting with BOP director Michael Quinlan on October 5, 1987 to discuss changes to the HSU’s conditions of confinement. Quinlan agreed to end strip searches, relax visitation restrictions, and reevaluate prisoners’ security classification.¹⁴⁸ In this moment, the pressure campaign built by organizations like the ACLU and the Campaign to Abolish the Lexington Women’s Control Unit appeared at least partially successful. However, the struggle to abolish the Lexington HSU was undermined by the BOP when they announced plans to close the Lexington HSU, only to replace it with a new, more expansive “150- to 200-bed facility” within nine months.¹⁴⁹ According to the BOP, the HSU was considered “inconvenient,” on account of operating as a “high-security unit within the minimum-security prison.”¹⁵⁰ The BOP did not expand on how the HSU posed an inconvenience to larger prison operations, but Quinlan suggested that a larger women’s high security unit was necessary because the “the ‘justice community’ [was] concerned about what to do with the influx of terrorists into the federal prison system.”¹⁵¹ Allegations of a growing female terrorist population were unfounded, but the growing population of women prisoners in the 1980s justified

carceral expansion. A new high-security unit would also repel the levels of scrutiny directed at the Lexington HSU by transforming the majority of political prisoners in the Lexington HSU into a small minority at the new facility.

For scholars like Gilda Zwerman, the HSU and its anticipated successor amounted to a new “special incapacitation” regime mobilized by the fear and loathing of an exaggerated female terrorist population. Zwerman argued that the BOP’s new strategy accomplished three specific tasks:

1. [The HSU] utilizes and manipulates the ‘terrorist’ label, as defined by conservative ideologues, in order to justify the ‘special’ treatment of political prisoners within the correctional system;
2. It demonstrates how intelligence and counterinsurgency policies may be infused into the correctional system;
3. It represents an expansion in the use of incapacitation, surveillance, and deterrence as mechanisms for social control and repression to a degree heretofore unprecedented in the U.S. correctional system.¹⁵²

As Zwerman points out, the state’s propensity to transform COINTELPRO into a counterterrorism program also implicated the prison system as the BOP transformed “traditional” forms of confinement into an exercise in carceral counterterrorism. The HSU’s meticulously managed environment implemented surveillance that immobilized terrorist activities inside *and* outside, the necessity for which stemmed from the BOP’s mistakes that allowed for Shakur’s escape.

When inmates like Rosenberg and Baraldini challenged the constitutionality of the Lexington HSU, the opinion delivered by Senior District Judge Barrington D. Parker

failed to count the physical and psychological effects of the HSU as cruel and unusual. The significance of this ruling cannot be understated: while the plaintiffs sought to prove that the HSU's living conditions were cruel and unusual, they were also fighting to prevent new HSUs from emerging around the country. Parker's ruling consequently protected the BOP as they transferred the dangerous conditions of confinement used in Lexington to their new facility in Marianna, Florida. Thus, the legacy of the HSU persists as a definitive instance of carceral expansion that forever changed the way women experienced high security units in the United States.

In March 1988, Baraldini, Rosenberg, and Sylvia Brown sued the BOP, claiming that the conditions of their confinement in Lexington violated their First, Fifth, and Eighth Amendment protections. The lawsuit may have granted Baraldini, Rosenberg, and Torres release from the HSU, but it also legitimized the contours of high security confinement at the new Marianna facility. Much to the plaintiffs' disappointment, Parker would only find the HSU to be in violation of the First Amendment. According to the lawsuit, the BOP created the HSU, first and foremost, as a response to "the threat of external terrorist attacks on institutions" and used "past or present" affiliations with political and/or terrorist groups to determine who would inhabit the HSU. Terrorism, for the BOP, was not assessed on the basis of the crime one committed, but rather on the basis of one's alleged political affiliations. Incarcerating women "with histories of 'assaultive, escape prone or disruptive activity,'" remained a secondary concern for the BOP. Despite the BOP's attempts to retroactively situate the HSU as a space to secure escape-prone women, the disparity between unoccupied HSU cells and the number of escape-prone women in the general prison population pointed to a glaring contradiction.

Rosenberg and Baraldini's attorneys successfully argued that the BOP used overly broad and vague criteria to assign women to the HSU, a carceral space that ultimately served "no legitimate penological purpose." Parker ruled that the HSU functioned as an "exaggerated response to the [BOP's] penological concerns" that violated Baraldini, Rosenberg, and Torres's First Amendment rights.¹⁵³

Baraldini, Rosenberg, and Brown's First Amendment claims established the HSU as an illegal penal repository for leftist revolutionary women. The women's Fifth and Eighth Amendment claims, however, failed to persuade Parker that they were unconstitutionally transferred to the HSU, where they were subjected to cruel and unusual punishment. With regard to their transfer, the plaintiff's Fifth Amendment claims were swiftly dismissed when the women's attorneys argued that "they should have been afforded a pre-transfer hearing" as part of due process in advance of their HSU transfer. Parker's response explained that "the Due Process Clause does not protect a prisoner's interest in remaining at a specific prison," meaning inmates have "no right to be incarcerated in any specific institution," even if one's transfer results in significant changes to their conditions of confinement. Charges of Eighth Amendment violations, however, required a more nuanced legal analysis in light of claims that the HSU's conditions of confinement led to life-threatening physical and psychological deterioration.¹⁵⁴

Baraldini and Rosenberg testified that the HSU caused them "extreme emotional distress" that, in Baraldini's case, prompted suicidal ideation and planning. Several expert witnesses reinforced the severity of the HSU's conditions, affirming that the "unit would not be proper for anyone because of the 'debilitating effect of the institution, the

harassment of staff, the sort of aggravation plaintiffs face on a daily basis, the fact they have become extremely depressed and see no future and no way out.” Despite the severity of Rosenberg and Baraldini’s claims, they would not rise to the standard the Supreme Court established when deciding *Estelle v. Gamble* in 1976. According to the court, “a prisoner attempting to prove a violation of the Eighth Amendment must show ‘unnecessary and wanton infliction of pain.’” Unable to show that the HSU *deliberately* prompted inmates’ pain and suffering, the court considered the extent to which the HSU met inmates’ basic needs. According to Parker,

Because the record is supported by strong evidence that the meals served in the Unit are prepared by a registered dietician and are more than adequate, the Court finds that plaintiffs have not been denied the basic nutritional necessities. The same is true with respect to their shelter. Their cells are 110 square feet, larger than most within the federal system, and complies with recognized standards. Recreational equipment, laundry facilities, and a variety of entertainment are provided. The Unit is clean and well-maintained. Plaintiff’s expert, Dr. Kamka, testified that “physically and technically you would find little to complain about.”

In recognizing the many ways the HSU met, and sometimes exceeded, the basic requirements for human life, Parker rejected Eighth Amendment claims because inmates had access to the “essential mainstays of life.” Under this constitutional rubric, Parker’s opinion highlighted the state’s narrow conceptualization of “life” for incarcerated people. Psychological damage could not be counted as cruel and unusual so long as the HSU supported physical life. In other words, the HSU could legally operate and administer

“social death”—a form of living death that positions prisoners as “risks to be managed, resistances to be eliminated, and organisms to be fed, maintained, and even prevented from taking their own lives.”¹⁵⁵

Though unable to rule in favor of the plaintiff’s Eighth Amendment claims, Parker’s opinion drew attention to the problematic nature of the HSU. From his perspective, “the Unit at best meets the bare Eighth Amendment standards but at times the treatment of plaintiffs has skirted elemental standards of human decency. The exaggerated security, small group isolation, and staff harassment serve to constantly undermine the inmates morale.” In emphasizing the barely legal nature of the HSU, Parker demonstrated his concern over the possibility that other facilities would inherit the “problems haunting the Lexington Unit.” Parker’s concern, in particular his decision to emphasize the barely legal nature of the HSU, however, enabled the BOP to design a *better* prison. Indeed, Parker’s opinion cited the creation of the Marianna, Florida facility as a remedy for some of the plaintiff’s concerns. Parker believed that the plaintiffs’ complaints would be alleviated upon their transfer: “Because the population will be larger and the women will be allowed to mingle and interact with each other, they should not suffer from the psychological effects associated with small group isolation.” In other words, prison expansion and transfer remedied the plaintiffs’ Eighth Amendment claims, where one’s transfer to a new facility with a larger population would absolve the psychological suffering women experienced in the HSU.¹⁵⁶

On July 15, 1988, Parker issued a judicial decree that closed the Lexington HSU. His order that Baraldini, Rosenberg, and Torres be immediately transferred to the general prison population was only partially satisfied by the BOP.¹⁵⁷ According to Susler, the

BOP “refused to comply with Judge Parker’s unambiguous order that they place the political prisoners in the general population of a women’s federal correctional institution.”¹⁵⁸ Rather than immediately integrate the women into the general population of FCI Lexington or FCI Alderson, the BOP waited until October 1988 to distributed the women between three different jails: Baraldini to MCC, New York; Torres to MCC, San Diego, and Rosenberg to the Washington, D.C. jail.¹⁵⁹ Lexington HSU inmates Debra Brown and Sylvia Brown were transferred to the Shawnee Unit for “medium- to high-security women prisoners” upon its opening in August at the Federal Correctional Institution in Marianna, Florida.¹⁶⁰

Moving the Mission

The Shawnee Unit at Marianna ultimately allowed the BOP to correct the First Amendment errors made in Lexington. In expanding the available space for women prisoners, the BOP shifted the ratio of political prisoners and non-political prisoners, effectively correcting the mistake made in Lexington that over-represented political prisoners in the HSU. From Susler’s perspective, the BOP merely “moved the mission” of the HSU to “a new high security unit. . . inside a new men’s federal prison in Marianna, Florida. This mission still involves special, punitive treatment for women political prisoners.”¹⁶¹ Indeed, several leftist revolutionary women were sent to the Shawnee Unit throughout the late 1980s and 1990s, including Carol Manning, Laura Whitehorn, Marilyn Buck, and eventually Baraldini and Rosenberg.¹⁶² While some prison advocates assured that “conditions in Marianna have never matched the extreme abusiveness of Lexington,” the women who lived in the new unit contested that

assessment, claiming that Shawnee was “designed to deflect any concern from the outside about human rights abuses—it looks comfortable and attractive.”¹⁶³ Writing in 1992, Baraldini, Buck, Rosenberg, and Whitehorn argued that Shawnee extended the HSU’ mission

to control, isolate, and neutralize women. . . behind a veneer of new paint and the momentary elimination of the most notorious abuses. The BOP always denies the truth of its workings. It denies the existence of control units and this unit in particular, not even listing it in the BOP Register of Prisons. Nevertheless, Shawnee is the present women’s version of the Marionization of the prison system.¹⁶⁴

While it remains unclear how long the Shawnee Unit remained in operation—to Baraldini, Buck, Rosenberg, and Whitehorn’s point—the new unit remained immunized from the political and legal pressure that shut down the Lexington HSU. If nothing else, the BOP became far more adept in censoring news of the day-to-day functions of women’s high security units. One might say the BOP went underground in the aftermath of the Lexington HSU lawsuit.

The ACLU’s legal battle to shut down the Lexington HSU did the important work of granting Baraldini, Rosenberg, and Torres’ release from the HSU on account of their ability to show First Amendment violations. *Baraldini v. Meese* did not, however, interrupt the larger carceral machine that continued to expand an increasingly problematic carceral technology across the United States. In failing to establish the Lexington HSU as a cruel and unusual form of confinement, the ACLU’s case ultimately led to a ruling that portrayed small group confinement, behavioral modification, and

ideological reconditioning as worthy of constitutional protections, thus cementing counterterrorism tactics as an American penological practice. In the event Judge Parker interpreted the HSU's various forms of psychological abuse as a form of cruel and unusual punishment, it is possible that the Lexington HSU would have set a significant precedent in the ongoing battle against prison torture.

The Lexington HSU serves as one end result of twentieth-century U.S. domestic counterterrorism efforts. Not only did the rubric of terrorism allow the intelligence community to delegitimize the radical left's political dissonance, it also promoted terrorism as a category by which the state could more freely pursue, prosecute, and punish dissident citizens. Indeed, the pursuit and punishment of Assata Shakur—the “first” female terrorist—served as an early example of the kinds of punishment the state was capable of, but her escape ultimately prompted the development of the HSU as a prison with a more formalized counterterrorism penology. The Lexington HSU exemplified the state's ability to subject its enemies to forms of social death, in which one exists without truly living. In creating a life-sustaining space steeped in physical and psychological harm, the HSU functioned as space where “terrorists” would exist as the living dead. From Torres's perspective, life in the HSU was “like being buried alive.”¹⁶⁵

Narrating the moments that underpin the birth of the Lexington HSU risks representing carceral counterterrorism as a straightforward process. It is anything but. This third case study links the Lexington HSU to the emergence of counterterrorism as a form of political repression. But it is far more difficult, albeit increasingly necessary, to trace the legacy of politically driven carceral abuse in the aftermath of the Shawnee Unit. In the words of Dan Berger, “the United States stands out in the world not so much for

having [political prisoners], as for being so vengeful in continuing their incarceration while denying their very existence.”¹⁶⁶ Thus, in turning to the contemporary development of U.S. carceral politics in the twenty-first century, one must ask: Who are our political prisoners? Where have they been disappeared? How do we resurrect the socially dead?

Notes

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- ³ *Ibid.*
- ⁴ Shelia M. Poole, “300 Protest Women’s Prison Unit,” *Lexington Herald-Leader*, Apr. 20, 1986.
- ⁵ *Ibid.*
- ⁶ *Ibid.*
- ⁷ Duke, “Two Female Terrorists.”
- ⁸ It is difficult to trace location records for incarcerated women through the BOP. As such, I have compiled the locations of imprisoned leftist revolutionary women by referring to the correspondence addresses listed in issues of *The Insurgent*.
- ⁹ Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers: Documents from the FBI’s Secret Wars Against Domestic Dissent* (South End Press, Boston: 1990): 307.
- ¹⁰ Silvia Baraldini, Marilyn Buck, Susan Rosenberg, and Laura Whitehorn, “Women’s Control Unit: Marianna, FL,” in *Criminal Injustice: Confronting the Prison Crisis*, ed. Elihu Rosenblatt (Boston: South End Press, 1996): 190-191.
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- ¹² Christopher Maag, “New Push to Capture Woman in ’73 Killing of State Trooper,” *New York Times*, May 2, 2013.
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- ¹⁴ Jasbir Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Durham: Duke University Press, 2007), 2.
- ¹⁵ *Ibid.*, 10, 28.
- ¹⁶ *Ibid.*, 28.
- ¹⁷ *Ibid.*, 24.
- ¹⁸ *Ibid.*, 24.
- ¹⁹ “Costs of War: Civilians Killed & Wounded,” Watson Institute, International & Public Affairs, Brown University, 2020. watson.brown.edu/costsofwar/costs/human/civilians
- ²⁰ Puar, *Terrorist Assemblages*, 10.
- ²¹ Assata Shakur, *Assata: An Autobiography* (Chicago: Zed Books, 1987): 235.
- ²² *Ibid.*, 236.
- ²³ Dan Berger, *Outlaws of America: The Weather Underground and the Politics of Solidarity* (Oakland, CA: AK Press, 2006): 246; Bryan Burrough, *Days of Rage: America’s Radical Underground, the FBI, and the Forgotten Age of Revolutionary Violence* (New York: Penguin Press, 2015): 248.
- ²⁴ Shakur, *Assata*, 232.
- ²⁵ “Woman Shot in Struggle With Her Alleged Victim,” *New York Times*, Apr. 7, 1971.
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- ²⁷ Margaret Tarter, “Life sentence imposed on black activist,” *Bay State Banner*, Apr. 7, 1977.

- ²⁸ Shakur, *Assata*, 235-36; Frank Faso and Paul Meskil, "Alarm Out for 4 as Killers Of 2 Cops in East Village," *New York Daily News*, Feb. 9, 1972.
- ²⁹ Shakur, *Assata*, 234-35.
- ³⁰ Michael Martin, "FBI Most Wanted Terrorists List: Who is Assata Shakur?" *Tell Me More*, National Public Radio, podcast audio, May 7, 2013.
- ³¹ Martin, "FBI Most Wanted;" Akinyele Omowale Umoja, "Repression Breeds Resistance: The Black Liberation Army and the Radical Legacy of the Black Panther Party," *New Political Science* 21, no. 2 (1999): 145.
- ³² Shakur, *Assata*, 1-17.
- ³³ *Ibid.*, 47.
- ³⁴ *Ibid.*, 48.
- ³⁵ Winston A. Grady-Willis, "The Black Panther Party: State Repression and Political Prisoners," in *The Black Panther Party: Reconsidered*, ed. Charles E. Jones (Baltimore, Black Classic Press, 1998): 379; Berger, *Outlaws of America*, 246.
- ³⁶ Lennox S. Hines, foreword to *Assata: An Autobiography*, by Assata Shakur (Chicago: Zed Books, 1987), x.
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- ³⁹ *Ibid.*
- ⁴⁰ *Ibid.*, 65.
- ⁴¹ *Ibid.*, 253.
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EPILOGUE: Full Circle: Queer Resistance in the Twenty-First Century

To venture further into the question of what quality of life the carceral state allows for inmates, this epilogue returns to the issue of women's suicide in jail.

Antoinette DiBenedetto's 1947 suicide served as a catalyst for homophobic conservatives to rearticulate what women's incarceration was, or could be. When, in 2015, Sandra Bland died in police custody, Bland's alleged "suicide" presented yet another occasion to imagine women's life and death within the prison-industrial complex. While the geographical, sociological, and historical contexts are different for Bland, her reported "suicide" worked like DiBenedetto's to mobilize the carceral state and its resisters in a well publicized conflict.

Supplementing the preceding historical case studies, then, this epilogue turns to entertainment media to explore representations of women who resist the carceral state in the twenty-first century. I examine Bland's case as an entry point to a popular rendering of women's life in prison in Netflix's *Orange is the New Black*. I argue that the show offers suicide as a method of queer resistance to the carceral state, but in so doing, cannot avoid the sexual and racial stereotypes that perpetuate the carceral cycle. I then integrate this insight into a summary of findings from earlier case studies in a conclusion that advocates for abolitionist teaching, scholarship, and activism.

How to Die in Jail

On the afternoon of July 10, 2015, a Texas state trooper pulled over a 28-year-old black woman after she allegedly "failed to signal a lane change."¹ What should have been a routine traffic stop for a minor infraction quickly escalated for Sandra Bland. Well

aware of the inherent danger she was in, Bland decided to video record her interaction with the officer, which—paired with her refusal to put out her cigarette—only served to aggravate him. After opening her car door and threatening to “light [Bland] up” with his taser, trooper Brian Encinia forcibly removed Bland from her car. Once outside the view of his dashcam, Encinia pushed Bland to the ground, and arrested her for assaulting a public servant.² Bland was charged with felony assault, and booked later that day at the Waller County Jail in Hempstead, Texas.³

On Monday morning—three days after her arrest—Bland was reportedly found hanging in her cell, prompting the Harris County Medical Examiner’s office to record Bland’s death as a suicide.⁴ Bland’s death sparked widespread outrage, not only over the violent circumstances under which Bland was arrested, but over the growing number of black women and girls dying in police custody.⁵ Bland’s death contributed to widespread calls to #SayHerName over social media, while protests erupted across the country from Hempstead to Chicago, New York to California. Bland’s death was particularly troubling because she was a vocal Black Lives Matter activist who used Facebook as a platform to upload her video series, “Sandy Speaks.” As such, her knowledge of, and involvement within the Movement for Black Lives cast an enormous shadow of doubt over her alleged suicide, prompting the viral hashtag, #WhatHappenedToSandraBland?

Throughout this dissertation, I have demonstrated how the carceral cycle operates as a biopolitical form of control that is punctuated by women who engage in queer acts of resistance. I have taken care to note the ways in which carceral institutions invest in new forms of carceral control in the aftermath of a threat. I arrive at a discussion of death in order to count suicide among the tactics of queer resistance, in which, in the words of

Chloe Taylor, one can use death to “escape biopolitical regulation through one’s own agency.”⁶ Suicide as queer resistance emphasizes that a desire to die is not a “private and personal” act rooted in an individual pathology, rather, it is a reasonable response to the social conditions that produce suicidal ideation, and as such, is “public and political.”⁷

Scholars examining the maintenance of life and the production of death recognize the ways in which suicide has been framed as an individual, rather than a social, pathology. For example, Taylor argues that the biomedicalization of suicide has treated it as “a condition of subjects rather than as an effect of societies, situations or institutions.”⁸ In Taylor’s Foucauldian analysis, the production of suicidal subjects, as opposed to the treatment of suicidal societies, serves a specific biopolitical purpose. When suicide—like, as Taylor suggests, crime and sex—is no longer an act, but a condition, it is subject to the disciplinary and regulatory power networks that target both individuals and populations.⁹

In this epilogue, I suggest that suicide, when framed as an act of queer resistance, disrupts the carceral cycle. However, I also focus on the ways in which suicide perpetuates the carceral cycle. Within the context of prison, “suicide” is always represented as an individual, self-inflicted choice, typically rooted in mental illness, that shields the state from accusations of culpability in the aftermath of a death. Suicide’s emphasis on individual responsibility absolves prison administrations from having to make meaningful changes to improve conditions of confinement, even when prison conditions such as solitary confinement are known to exacerbate suicidal ideation. In other words, suicide protects power when administrations relying upon a biomedical model that insists upon treating suicide as an “individual pathology,” and as a result, does not necessitate prison reform. Even when carceral institutions are moved to engage in

suicide prevention efforts, administrative efforts serve the prison, not the prisoner, by enhancing the production of slow death so to better engage in the long-term life management of prisoners.

Sandra Bland's death complicates suicide because her family and friends perceived her declared "suicide" as a cover-up for murder. In this epilogue, I read Bland's death against the stereotype of the strong black woman in order to demonstrate how this stereotype upholds the carceral cycle. In arguing that Bland was likely murdered by a state actor, Bland's family framed her suicide as impossible by framing her as a strong black woman.

When the stereotype of the strong black woman is used to insist that Bland should have been strong enough to survive three days in a county jail, it works to eclipse the most insidious acts of violence that can *lead* one to take one's life. As such, in maintaining the likelihood that Bland was in fact killed, I wish to emphasize how suicide can function not only as self-murder but also as a murder committed by the state. I argue that the stereotype of the strong black woman serves the carceral cycle when it refuses to acknowledge that suicide is among the modes of state-sponsored death. Insisting that a black woman is too strong to commit suicide not only establishes expectations for what sort of circumstances one must be able to survive, it relinquishes suicide to the "weak" and "mentally ill." Perhaps worst of all, this stereotype fails to hold the state accountable for the production of death vis-à-vis suicide. As Taylor suggests, when the state kills, it justifies death in a specific way. As such, the declaration of suicide must be read as a very deliberate "justification."¹⁰ It is this type of murder that is most dangerous, in which suicide absolves prisons of culpability, even after it is clear that the state manufactured

conditions of confinement designed to promote suicidal ideation.

In addition to considering the ways in which suicide upholds the carceral cycle, I also theorize suicide as an act of queer resistance that allows one to transcend the carceral cycle. Suicide, when conceived of as a rational act, allows one to make decisions about life and exert control their existence—especially when entrenched in an institution that counts them among the “living dead.” I apply this argument to representations of suicide that appear in Netflix’s *Orange is the New Black* (OITNB). As the preeminent visual narrative concerning U.S. women’s incarceration in the twenty-first century, OITNB partially fulfills what Miriam Van Waters sought to accomplish when she embraced film as a means to educate popular audiences about women’s incarceration more than 60 years ago.

Just months after her reinstatement, Van Waters was approached by two screenwriters who hoped to bring the “Ordeal in Massachusetts,” as a *Harper’s Magazine* article referred to it, to the big screen.¹¹ Van Waters carefully weighed the potential for positive publicity, concluding that “if a motion picture would really extend information and constructive feeling, [she] would be glad to cooperate” with efforts to write and produce a film.¹² After two writers failed to produce treatments that Van Waters found suitable, Warner Brothers released a film that, according to Estelle Freedman, “emphasized women’s vulnerability in prison, rather than the rehabilitation that Van Waters championed.”¹³ According to Judith Mayne, the Academy Award nominated film shifted away from the exploitation films of the 1930s and 40s, and propelled the women-in-prison genre toward the “respectable, social problem film.”¹⁴ Still, the legacy of *Caged* (1950) could not have been worse for Van Waters’s public relations campaign. *Caged* not

only told the wrong story, but a wrong story that would be repeated: scholars like Mayne would eventually consider *Caged* to be the “prototype” of the overtly homophobic women-in-prison genre that unfolded over the following decades.¹⁵

OITNB, as a twenty-first century descendant of *Caged*, engages in the type of consciousness-raising that Van Waters hoped *Caged* might offer in the 1950s. There are many shortcomings of the show, which was initially adapted from Piper Kerman’s 2010 memoir.¹⁶ OITNB, however, remains an undeniably important representation—often cited as Netflix’s most watched original show—that informs a mass audience’s understanding of women’s experiences with policing, the criminal legal system, incarceration, and resistance.¹⁷ To its credit, OITNB deconstructs layers of systematic abuse in order to offer a more comprehensive picture of incarceration. As such, my analysis of suicide in OITNB explicates the more “complete picture” of the circumstances that lead characters to their deaths. That the narrative penetrates the “blue wall of silence” meant to protect information about prison administrator’s culpability is significant. OITNB depicts corruption in a way that is difficult to access, let alone prove, in real-life instances of brutality and corruption.

My analysis of OITNB begins with Tricia Miller’s suicide in the first season, where her liberatory drug overdose also creates a scenario in which a guard covers up his role in funneling drugs into the prison. Next, I turn to Tasha “Taystee” Jefferson’s story arc in OITNB’s final season, in which Taystee deliberately considers suicide as a way to gain control over her life. Although viewers watch Taystee work to obtain the means for a guaranteed drug overdose, Taystee’s “student,” Tiffany “Pennsatucky” Doggett beats her to it and overdoses on Fentanyl in the prison laundry. I question this narrative

decision for the way it perpetuates the depiction of black women as capable of enduring the pain and suffering that prison projects upon them. As such, this representation invests in the problematic stereotype of the “strong black woman” whose pain and suffering is ignored, or at least, believed to be tolerable on account of her race and gender. While I do not wish to suggest that writers *should* have killed off Taystee, OITNB’s decision to interrupt Taystee’s plan with Tiffany’s suicide distinguishes between the types of women for whom suicide is acceptable, and the types of women for whom survival is a requirement of their incarceration. Before turning to my analysis of suicide in OITNB, I consider how scholars have theorized issues of slow death and suicide.

Critical Remarks on Slow Death and Suicide

Across the country, Black Lives Matter activists refuse(d) to accept that Sandra Bland died of suicide. HBO’s documentary, *Say Her Name: The Life and Death of Sandra Bland* (2018), captures this sentiment shared among family, friends, and activists. From the point of view of Bland’s mother and sisters, Bland was murdered while in custody: “I just don’t see her taking her own life. I just don’t see it,” remarked Sandra’s sister, Sharon Cooper.¹⁸ Bland’s friend and mentor, Lavaughn Mosley, also had a difficult time believing that Sandra died of suicide: “If you know Sandra Bland, you know she’s had much harder times than sitting in jail for three days.”¹⁹ Indeed, Bland endured significantly longer jail stays just a few years earlier, where she spent 30 days in the Harris County Jail in Houston, Texas, for a misdemeanor drug possession charge.²⁰ As a new, underemployed college grad, Bland could not afford to pay a series of staggering traffic fines and court fees, so she elected to “sit out” her fines in jail where

she could “earn” \$100 a day to pay off her fine, and dissolve the bench warrant the state had issued.²¹ Given Bland’s commitment to racial justice, it made “no sense,” in the words of Latoya Smith, Bland’s sorority sister, “that she would go into a jail and cower away and kill herself.”²²

The theories that emerged in the aftermath of Bland’s death, many of which were inspired by the #WhatHappenedToSandraBland hashtag, posit that Bland was murdered by police or prison guards. That some suggest Bland was already dead when her mug shot was taken demonstrates a deep-seeded suspicion of official law enforcement narratives that deploy suicide as a persuasive cover-up for systematic racism, sexism, and classism.²³ These reactions, all of which are reasonable in light of systematic racism and sexism, stem from one resounding question: how could a traffic violation escalate to the point of death? As scholars such as Andrea Ritchie argue, Bland’s death was first and foremost “the product of coming into contact with police in the first place, and of the subsequent denial of [Bland’s] humanity and medical needs while in police custody.”²⁴ At least three videos, including Brian Encinia’s dashcam video, a bystander’s video, and the video Bland initially recorded on her phone, document the brutal conditions in which Encinia escalated his interaction with Bland.²⁵ In what follows, I outline the way suicide functions as a cover-up. While I maintain the probability that Bland was the victim of homicide, I seek to outline the myriad ways in which the state *produced* Bland’s death by subjecting her to conditions of confinement that promoted the possibility of suicidal ideation.

The conditions of Bland’s confinement at the Waller County Jail are riddled with infractions. First, Bland—who revealed she had epilepsy upon being slammed to the

ground by Encinia—was deprived of Keppra, an anti-seizure medication.²⁶ As Tamara Tabo’s research reveals, patients taking Keppra are cautioned against suddenly stopping the drug, which is known to alter patient’s mood, and may increase one’s risk of suicidal ideation.²⁷ Second, the jailers in charge of Bland’s incarceration were negligent insofar as they failed to place Bland “on a suicide watch or summon a mental health expert to evaluate her” despite the fact that Bland indicated a suicide attempt within the last year at the time of her intake.²⁸ According to reporter Debbie Nathan, Bland’s forearm arm was covered in small cuts, indicating that she may have engaged in self-harm prior to her arrest.²⁹ Finally, the county failed to prevent Bland’s death—giving her access to a plastic garbage bag in an empty cell—despite knowing that suicide was well within the realm of possibility. That Bland’s jailers pre-filled the forms that documented the times they checked on inmates only served to further render the prison culpable; Bland did not receive the “regular welfare checks at fifteen-minute intervals” that were meant to protect her life.³⁰ As a result, authorities at the Waller County Jail were unable to specifically determine Bland’s time of death, or identify when a guard last checked on Bland.

Bland’s death is only possible in a society that subjects black women to what Kali Nicole Gross calls an “exclusionary politics of protection.”³¹ For Gross, “black women [are] not entitled to the law’s protection, though they [cannot] escape from its punishment.”³² Gross’s theory accounts for the ways in which black women have, and continue to experience violence at the hands of police, so much so that black women are unable to benefit from police protection because of the way law enforcement perpetrates violence against them. Bland’s fate expands Gross’s rubric by demonstrating how the exclusionary politics of protection applies in carceral spaces, where jailers fail to carry

out their duties that ensure that black women live. As such, the exclusionary politics of protection inform the way in which Bland's death is read. The racialized and gendered acts of violence perpetrated against Bland by her arresting officer contests the state's narrative that Bland died from suicide, and support claims that Bland was murdered. However, the exclusionary politics of protection also illuminate the ways in which Bland may have possibly been driven to suicide, where the state deliberately subjects black women to dangerous conditions of confinement that, in the event of death, depends upon "suicide" as an excuse to absolve the state of culpability.

When the Waller County Sheriff's department announced that Bland died of suicide, they refused to acknowledge the errors they made that contributed to Bland's death. Further investigation uncovered several mistakes, including falsified welfare check logs. Still, as Nathan's report suggests, the allegation that "the jail and jailers didn't do what they should have done to prevent [Bland] from committing suicide," was met with "stunning and stupefying cruelty," in which the county argued that "Bland's decision to commit suicide was hers alone."³³ Even when the county elected to settle Bland's wrongful death suit, they vehemently denied any wrongdoing. According to Waller County attorney, Larry Simmons, the \$1.9 million dollar settlement was not an admission of guilt: the county "vigorously den[ies] any fault or wrongdoing, and the potential settlement does not involve any such admissions."³⁴ The county's willingness to settle, however, must be read as part of a legal defense strategy meant to mitigate the county's responsibility and/or prevent a trial from uncovering more evidence of neglect.

Bland's family took the opposite approach, insisting that Bland was murdered. While the family's investigation into Bland's death would unearth enough evidence to

support a wrongful death civil suit, allegations of homicide proved futile. As the HBO documentary reveals, forensic pathologist Dr. Joye Carter did not find evidence of foul play. Instead, Carter points to a different possibility:

I have ruled out a homicidal hanging. It's not suggestive of that at all. But I think this is something . . . you're supposed to be face-to-face one an hour, not looking through a window and guessing. This young woman is scared and frightened and someone is having emotional pain, physical pain, isolated, then *you have some things that should be considered as being driven to*. You know, we know that someone's spirit can be broken even in a short period of time.³⁵

Although it is important to note that errors made at the jail failed to record important information such as core body temperature and fingerprints at the time of Bland's death, Carter's autopsy report suggests that Bland was "driven" to suicide. In shifting away from a homicidal hanging argument to a suicidal foul play argument, Carter implies that the jails's action and inaction could have promoted the suicidal ideation that prompted Bland's death. Whether by suicide or homicide, Bland was killed by the state. Suicide merely helps distance the state from culpability by giving semblance to Bland's agency, where Bland, as the "agent of her own death," covers up state-sponsored acts of foul play.

In raising concerns about Bland's mental wellness, Carter demonstrates how the conditions of Bland's confinement could have led her to suicide. In granting Bland a full range of emotional reactions to her confinement, Carter relieves Bland from problematic "perceptions of Black woman as menacing and their bodies as 'superhuman,'—and therefore not susceptible to pain," which scholars like Ritchie and Kimberlé Crenshaw

identify as racist and sexist myths that inform police brutality.³⁶ The distinction, then, between suicidal ideation as a result of a social circumstances and suicidal ideation as a symptom of mental illness is crucial when demonstrating how the state drives individuals to death. Though the correlations between mental illnesses and suicide are important for suicide prevention, scholars such as Mark Button have criticized the medical profession's preoccupation with the "interior psyche of a [suicidal] person" which leaves the "external sociopolitical conditions that are a constitutive feature of all subject formation. . . out of the picture."³⁷ In stepping back from the idea that suicide is an individual pathology, Button argues that suicide is, in part, a "consequence of wider social and political forces."³⁸ One might consider, then, the extent to which structural inequalities and experiences with marginalization influence suicidal ideation, particularly against the backdrop of the prison. Carter and Button would agree that one can die from suicide without being suicidal. Mental illness is certainly not a prerequisite.

The civil wrongful death suit filed by Bland's mother, Geneva Reed-Veal, argued that Bland "should not have been arrested and that she was later held in dangerous conditions without proper supervision."³⁹ Indeed, there are a number of circumstances that might have protected Bland's life: had she not been arrested, had she had access to medication and medical assessment, had she been housed with another person, had guards conducted wellness checks. And while #WhatHappenedToSandraBland remains unknowable, suicide prevention efforts remain a passive concern for prison administrators at the Waller County Jail. Although the wrongful death suit settlement would require the county to use sensors "at the jail to ensure that detainee checks were done accurately and could not be falsified," and ensure that "a duty nurse or emergency

medical technician [is available] on all shifts,” the institution’s commitment to protecting lives remains dubious.⁴⁰ What remains apparent, in the midst of Bland’s death, is that an inmate’s possible suicide allows the state to engage in practices that will continue to put incarcerated lives at risk. So long as suicide is represented as an act for someone who has “lost one’s will to live,” it will remain difficult to understand how the state enacts violence that is designed to annihilate one’s will to live. In this arrangement, we cannot readily understand suicide as a cover up for foul play; suicide *is* foul play. The state’s ability to inspire suicidal ideation is deliberate, and serves as evidence of a fully functioning carceral cycle that depends on suicide to produce death.

Suicide as Queer Resistance

Given the extent to which prisons operate as institutions that condemn inmates to social death, while also producing literal death, how can suicide function as an act of queer resistance? In recognizing that suicidal ideation is most often classified as a symptom of mental illness, I turn to scholars who position suicidal ideation as a sane, rational response to the experience of being forced to exist among the living dead. I establish these dichotomies in an effort to demonstrate how the instances of suicide I contend with exceed these binaries.

Scholars such as Button build upon the work of David Mayo, who in 1986, conceptualized suicide as a rational choice. If Button, in imagining suicide as a response to external factors including marginalization, calls for suicide prevention efforts that recognize and respond to the political conditions that exacerbate suicidality, Mayo’s research suggests that suicide can be understood as a perfectly rational choice. In

criticizing the psychiatric view of suicide, Mayo argues that

the psychiatric objection [to suicide] is animated by the presumption. . . that suicide is always ‘. . . a maladaptive action, irreversibly counter to the patient’s sane interests and goals,. . .’ and that life under any circumstances is worth living, or if it is not, that there are medical interventions available that can make it so.⁴¹

Unlike Button, Mayo is not interested in advocating for suicide prevention strategies. His approach to suicide should not be mistaken as an appeal to suicide, rather, his interest in depathologizing suicide is meant to challenge the notion that life is *always* worth living. Suicide, for Mayo, deserves attention for its liberatory capacity. So long as death remains a fact of life, one remains capable of rationally choosing suicide as a means to end the experience of pain and suffering.

In following Button and Mayo, a conversation about prison suicide must contend with the ways in which institutions contribute to suicidality. It is crucial, then, to understand prisons as institutions that receive “disposable” populations, where “who matters and who does not, who is *disposable* and who is not,” as Achille Mbembé remarks, is predetermined in a neoliberal, heteropatriarchal, and white supremacist society.⁴² As Angela Davis emphasizes, incarcerated people face social and premature death because prisons are “an abstract site into which undesirables are deposited, relieving us of the responsibility of thinking about the real issues afflicting those communities from which prisoners are drawn in such disproportionate numbers.”⁴³ Confinement, then, can be understood as a slow death sentence, where, to use the words of Lauren Berlant, prison embarks upon “the physical wearing out of a population.”⁴⁴

Jasbir Puar's understanding of Berlant makes a crucial distinction: "slow death is not an orientation toward the death drive, nor is it morbid; rather it is about the 'maintenance of living, the ordinary work of living on.'"⁴⁵ It is the slowness of slow death—the normalcy of slow death—that makes prison especially insufferable, where the project of existing as a confined person is *also* the process of dying. Prison's capacity to maintain life—without maintaining quality of life—draws the distinction between living and existing. For prisons to function, prisoners must merely exist.

Suicide prevention efforts led by prison administrations are consequently at odds with the prison's political commitments. The incidence of prison suicide suggests that prisoners have limited access to mental health care. The ineffectiveness of suicide watch protocols points to ambivalent and/or negligent attitudes towards prisoners' wellbeing. As such, a meaningful investment in prison suicide prevention would mean assuring that all inmates have access to mental health care, abolishing the use of solitary confinement, and reassessing the living conditions that prisoners must endure. However, the expense of these interventions prohibits them from taking place in both public and private institutions. On the one hand, preventing prison suicide means humanizing prisoners. On the other hand, slow death, as Puar points out, "is profitable for capitalism."⁴⁶ The longer a private prison, for example, can keep someone alive with as few resources possible, the more profit there is to be made off of the body. We might imagine, then, that the argument for suicide prevention resembles arguments perpetuated by anti-abortion activists. Pro-life conservatives want babies to be born, but often fail to support the social safety nets that would allow these children, and their parents, to thrive. Administrative suicide prevention efforts masquerade as a "benevolent" desire to preserve life, regardless

of the quality of life being maintained.

The irony of suicide prevention, as scholars such as Mayo and Button argue, is that prison suicide prevention does little to address the fact that incarceration implicitly, if not explicitly, promotes suicidal ideation. That prisons deliberately maintain life under the worst circumstances renders administrative suicide prevention efforts as actions that intend to keep prisoners alive, not as uninhibited people, but as subjects who must live under conditions that count them as socially dead. As a result, suicide prevention is an oxymoron for both prison administrators and inmates. On the one hand, prisons should prevent suicide, despite the fact that several prison conditions exacerbate suicidal ideation. On the other hand, prisoners should not commit suicide, despite the fact they are always already forced to live as, and among, the socially dead.

While finding ways to better care for incarcerated populations is important for those on the inside, a static investment in suicide prevention is not only a strategic position for prisons to maintain, it is characteristic of regulatory power, which Foucault describes as determining who lives and who dies.⁴⁷ As Taylor suggests, “every minute of the prisoner’s life is regulated. . . in an age of biopower, death is no longer the paradigmatic expression of power; it is elided in favour of a total management of life.”⁴⁸ While an institution’s literal or figurative commitment to suicide prevention is in the interest of saving lives, administrative suicide prevention is, at best, a life management tool that upholds regulatory power. When an inmate commits suicide, inmates die “on their own accord” so that the prison is not liable for a death they did not *directly* cause. In some cases, this outcome is desired, where the conditions of one’s confinement are deliberately meant to cause suicidal ideation. One need not look further than the

Lexington HSU to appreciate the ways in which the unit deliberately subjected prisoners to death-like living conditions. For Alejandrina Torres, the HSU was like “being buried alive,” in which potentially driving a terrorist to suicide was part of the HSU’s design.⁴⁹ Rather than be held responsible for annihilating inmates, suicide would absolve the BOP from responsibility, even when they design conditions of confinement that deliberately contribute to inmate death. Suicide, then, is strategic.

Netflix’s *Orange is the New Black* presents several characters who are drawn to suicide as a form of queer resistance. In examining the layers of marginalization that lead women to rationally entertain suicide, and either follow through with or resist their decision, I demonstrate how suicide rejects the mandate that life is worth living under any circumstance, and as such, works to restore power to incarcerated subjects.

In OITNB, nine incarcerated women die over the course of the show’s seven seasons. Suicide bookends the series, where Tricia Miller and Tiffany “Pennsatucky” Doggett, two young white women, deliberately overdose on drugs in season one and season seven. Despite the prevalence of characters with mental illness, suicide is never seriously on the table for black women like Suzanne, or white women like Lolly, Morello, or Red. Audiences are thus surprised when characters like Tricia take their own lives. Similarly, Tiffany’s death is shocking, mostly because it casts an enormous shadow of doubt upon Taystee’s anticipated suicide. Though Taystee is pressured to embrace the strong black woman myth throughout the final season, she is engaged in the careful planning of her death in the aftermath of a failed attempt to hang herself early in the season. Unlike Tricia and Tiffany, viewers gain insight into Taystee’s interest in suicide as a mode of empowerment and self-determination. Tiffany’s suicide, however, allows

just enough time to pass to influence Taystee to change her mind. My analysis demonstrates how the myth of the strong black woman forecloses suicide, as queer resistance, for Taystee. Taystee's renewed interest in life perpetuates the myth that black women can, and must endure under any circumstance.

The series' first suicide represents an act of queer resistance that also functions as a cover-up for corruption. In episode ten, season one, Tricia dies after deliberately overdosing on Oxycontin. As one of the youngest inmates in Litchfield who suffers from addiction, Tricia is vulnerable to Mendez, an especially corrupt correctional officer. When Mendez tries to sell drugs to Tricia, only to learn that she insists upon staying clean, he forces Tricia to deal for him. The moment that leads to Tricia's suicide takes place after lunch, when Mendez intercepts an allegedly high Tricia in the prison hallway. In order to prevent Tricia from participating in the "scared straight" tour that is taking place for a group of visiting delinquent girls, Mendez stuffs Tricia into a janitorial closet. When he returns to let her out, Mendez discovers Tricia's crumpled body on the floor. He quickly realizes she has overdosed on his drugs and frantically transforms her overdose into a hanging. The cover up works: Tricia's body is rediscovered by another CO, and suicide by hanging is ruled the cause of death. The hastiness with which Tricia's body is removed from the prison grounds suggests that suicide is a common enough occurrence that her body is sent to the morgue without much investigation. The cause of death—suicide by hanging—goes unquestioned, and Mendez is never suspected to have contributed to Tricia's death.⁵⁰

As the first death to take place in the show, Tricia's suicide illuminates how easy it is for authorities to absolve themselves of the harm they cause. Mendez may not

technically kill Tricia, but he is culpable. When Mendez forces Tricia to sell drugs, he generates within her new feelings of indebtedness. As several flashbacks suggest, Tricia has struggled to pay off debts throughout her life, but remains meticulously committed to righting her wrongs. As such, Tricia's suicide can be read in a number of ways. On the one hand, her death can be understood as an act of liberation, where Tricia transcends the full extent of her multiple marginalization that she cannot escape in prison, much less in the free world. On the other hand, her suicide can be imagined as a strategic attempt to expose Mendez as an abusive CO. Regardless of Tricia's intent, however, her suicide absolves the prison of responsibility because Tricia *chooses* to take her life. Tricia may be free, but her death fails to expose Mendez. In fact, in knowing that he can essentially "get away with murder," Tricia's death runs the risk of empowering Mendez.

By the time viewers arrive at the final season of OITNB, the series has presented death in circumstances that hit a variety of emotional tenors. For example, in season two, the terminally ill Rosa Cisneros, upon learning she has three to six weeks to live, steals a prison van, and drives it off a ledge into a quarry to the tune of Blue Oyster Cult's "(Don't Fear) The Reaper." In this bittersweet scene, Rosa's suicide allows her to regain control over her life in the wake of terminal illness, while also allowing her to indulge in one last crime. Rosa's getaway, however, takes a sinister turn when she spots the freshly escaped Vee Parker—season two's villain—on the side of road. Rosa decides to take Vee with her, so to speak, and runs her over.⁵¹ The introduction of inmate-on-inmate violence/homicide persists in the following seasons. Maureen Kukudio dies (off screen) from the injuries she sustained in her fight with Suzanne in season six, Barbara and Carol Denning kill one another in season six, Daya poisons Daddy at the beginning of season

seven. The most devastating death in the entire series, of course, is the murder of Poussey Washington in season four.

Unlike any of the other deaths, Poussey's death explicitly connects abuses of power within the prison system to racist policing practices, both of which depend on physical brutality. Poussey's death is the result of a peaceful inmate action, in which the women of Litchfield stage a protest demanding that Captain Desi Piscatella—known for promoting a culture of inmate abuse—be removed. When Bayley, a young, poorly trained CO follows Piscatella's orders to begin clearing inmates from the cafeteria, he pins Poussey to the ground, but gets distracted by Suzanne Warren. Bayley does not hear Poussey when she gasps for air and repeats Eric Garner's final words—"I can't breathe."⁵² Poussey dies in this moment, and like Michael Brown, whose body remained exposed for hours on a Ferguson street, remains on the cafeteria floor as prison administrators figure out what to do.⁵³

Poussey's death haunts the remaining seasons of OITNB. If, in the moments before Poussey's death, it was possible to believe, if momentarily, in the potential power of prisoner organizing, her death is a stark reminder of just how easily one can be crushed by the system. Taystee's subsequent crusade for justice for Poussey's death incites a riot, where inmates take over the prison, hold guards hostage, and attempt to negotiate a set of demands. What results is an armed retaking of Litchfield not unlike the armed retaking of Attica in 1971, where twenty-nine prisoners and nine prison employee-hostages were killed by military, law enforcement, and prison guards, who were ultimately absolved of their many criminal acts.⁵⁴ In the process of retaking Litchfield, Captain Piscatella is accidentally killed when a guard team shoots him at close range with a rubber bullet.⁵⁵

Instead of acknowledging their mistake, the group moves Piscatella's body to the pool area—where several women are discovered—to stage his death and manufacture a story they can repeat in lockstep. According to the man in charge of the unit, “all we need is a story that everyone can get behind, and we're coming out of this like heroes of the day.”⁵⁶ Indeed, as the state investigates Piscatella's death, it becomes remarkably clear that one of the women will pay.

Piscatella's death is ultimately pinned on Taystee. It is true that Taystee almost kills Piscatella—she's given the opportunity to toward the end of the riot in season five, but she chooses not to. Instead, the U.S. district attorney interviews a series of women, many of whom offer testimonies in exchange for immunity. Taystee is charged with inciting the riot and the second-degree murder of Piscatella.⁵⁷ While she pleads not guilty to inciting the riot, she risks a trial in an attempt to beat the murder charge. Despite being supported by the ACLU, Taystee is found guilty, and sentenced to life.⁵⁸

One of the most powerful elements of OITNB is the show's capacity to demonstrate the cycles of injustice that produce social death for women like Tasytee Jefferson. Multiple marginalization defines Taystee's struggle, from the time she was a child, growing up in group homes, to the point in her young adulthood where she begins selling drugs at the insistence of her foster mother. Taystee is caught, imprisoned, released—but risks her freedom once more when faced with the “choice” to live on the street, or sell drugs in exchange for a roof over her head. She chooses the latter, and soon finds herself back in Litchfield. As if watching Poussey die were not difficult enough, Taystee's attempt to get justice for Poussey's death results in her own annihilation when she is framed for a crime she did not commit. Taystee's experience in prison has only

ever compounded her experience with marginalization. This is why, after discovering her appeal has been denied, Taystee pursues suicide as the only remaining method of resistance.⁵⁹

When Taystee approaches Daya for drugs that will end her life in season seven, she does so with the understanding that her containment only serves the state. “Everyday that I’m here they win,” she explains to Daya, who responds with the obvious critique: “don’t they win if you take your life away?”⁶⁰ Taystee’s response frames suicide as a queer form of resistance that will allow her to transcend the state’s control over her life. “No,” she insists, “they want me alive so I can stay in prison. Don’t you feel how fucked up that is? But if I’m not alive, then I’m not in prison. That’s the only way I can have some kind of control over my own life.”⁶¹ Here, Taystee’s logic epitomizes suicide as a method of queer resistance. For Taystee, gaining control of one’s life, even if it means losing life, is a victory. More over, choosing to lose a life that is impossible to live is an acknowledgement that not all life circumstances are worth living. Although Daya is also serving a life sentence for murder, she fails to fully sympathize with Taystee, and sets an impossibly high price for the drugs Taystee wants. What follows is Taystee’s first suicide attempt, in which she tries to hang herself, albeit unsuccessfully. When she returns to Daya, she explains that she can’t die “the old fashioned way” because “instincts kick in.”⁶² Daya, aware of the ways in which Taystee’s proximity to the warden may help her, agrees to make a deal with her “lifer” sister.

In the episodes that follow, several women attempt to reinvigorate Taystee’s will to live. Suzanne, in particular, attempts to lift Taystee’s spirits by writing down “the truth” of how Piscatella died, with the hope that it might be useful in a legal context.

When the new warden, Taystee's childhood friend, Tamika Ward, discovers Suzanne's writing, she too doubles down on the ways Suzanne's narrative might help Taystee. However, the faith placed upon Suzanne's notebook is deeply problematic because it promotes the idea of *having hope* in the face of systematic injustice that Taystee is so deeply entrenched within. As scholar-critic Myles McNutt sees it,

Taystee wants nothing to do with [Suzanne's notebook,] because it only confirms that she never had a chance, and that she fought so hard against a setup she had no way to overcome. And while Ward sees it as hope, that strikes me as deeply naïve: why would a judge believe Suzanne, whose sanity would surely be questioned by prosecutors? Obviously, I don't want Taystee to kill herself, but I also realize how broken she is, and that the idea of trying again to revisit her case only to have it fall apart will only break her more.⁶³

Taystee's instinct to disregard Suzanne's notebook is an act of protection, as is her insistence to Tamika that she "don't have no more fight left."⁶⁴ Tamika, however, insists upon the unknown: "You don't know what's gonna happen. You gotta keep fighting so you can find out."⁶⁵ The bitter irony in this exchange is that Taystee *does* know that Suzanne's notebook will be of little use. She may concede to hope, and send the notebook to her attorney, but doing so does not necessarily stop her from working to get drugs from Daya.

By the end of episode eight, Taystee is in possession of a lethal dose of Fentanyl, which she keeps hidden at her desk at the warden's office. And yet, Taystee's demeanor noticeably shifts now that Suzanne's book is with her attorney. Tamika persuades

Taystee to tutor Tiffany, who has recently learned in GED class that she has dyslexia. When Tiffany's GED teacher remarks upon her improvements, Tiffany gives her credit: "Taystee's actually really been helping me. And she ain't so mopey anymore. It's kinda like a who-saved-who situation."⁶⁶ While it is true that Taystee is a talented teacher who appears to enjoy working with students, Tiffany's observation promotes two harmful stereotypes. On the one hand, Tiffany appears to envision herself as a white savior, who, by nature of needing a black woman's academic help, has restored Taystee to some semblance of her former self. On the other hand, that women like Tiffany are eager for Taystee to emerge from their "mopey-ness" is a not so subtle demand that Taystee return to playing the part of the "Strong Black Woman." While this trope is a source of pride for some black women, black feminist scholars like Joan Morgan have long demonstrated that

the original SBW and her alleged 'super strength' was a myth created by whites to rationalize their brutality. The contemporary SBW, however, is *our* internalization of this mythology. Superhuman strength was the salvageable shred of dignity remaining after sexism and racism ravaged our images. In turn, we fabricated an identity out of it.⁶⁷

That Tiffany wants Taystee to return to her strong black woman ethos is an uncomfortable moment in which Tiffany neglects the pain that Taystee endures. The expectation that Taystee be strong enough to survive her confinement under any circumstances is a sentiment that is deeply rooted in white supremacist ideology. As Morgan insists, "black women are not impervious to pain. We're simply adept at *surviving*."⁶⁸ Indeed, Taystee has done nothing but survive. The difference now is that

Taystee has relinquished the strong black woman title, which makes white women—and to an extent, black women in positions of power like Tamika, uncomfortable.

And yet, as Taystee continues to tutor Tiffany, their teacher-student relationship flourishes. When the GED teacher abruptly resigns and Taystee gets a larger audience of students, she appears to be genuinely happier. She begins to imagine other ways in which she can make a positive impact, and even asks Mr. Caputo to help her initiate a microloan program to decrease recidivism rates among newly released women. Episode twelve, however, presents several highly anticipated events, including Taystee's meeting with her attorney and the GED exam. To begin with the former, Taystee's meeting goes exactly the way she feared it would. Her attorney reviewed Suzanne's notebook, but does not believe "it meets the evidentiary burden for a *habeus* proceeding."⁶⁹ Taystee tells her attorney to "get the fuck out" of her life, and vows that she "ain't never seeing [her] again."⁷⁰ Taystee immediately goes to retrieve her Fentanyl, and has no trouble lying to Tamika regarding the outcome of her meeting. In fact, she convinces Tamika to bring Storky's to the end of the semester party—an homage to the fast food restaurant Tamika and Taystee worked at as teens. Tamika, unable to detect Taystee's despair, happily obliges. In the meantime, Tiffany—who soothed her GED anxieties with the knowledge that she would receive extra time on her exam to accommodate her dyslexia—does not get the extra time, due in no small part to CO Lusckeck's incompetence. This leads Tiffany to believe that she failed the exam.

At the end of the semester party, Taystee not only gets her last meal, she says goodbye to important figures like Tamika and Mr. Caputo. Neither administrator picks up on the finality of Taystee's tone, though Daya is completely aware of how Taystee has

orchestrated the evening. As Daya leaves with her crew of girls to “take this party up a notch,” she bids Taystee farewell: “Finally got you last meal, huh? Guess I shouldn’t say ‘I’ll see you later,’ then. Well, at least you found your way out this place.”⁷¹ It is worth mentioning that Daya makes these remarks to Taystee, who is seated next to Tiffany. As such, one must wonder if Daya’s comments influence Tiffany’s decision to join Daya’s crew in the laundry.

By the time Taystee leaves the cafeteria, clutching her Fentanyl in her hand as she walks down the hallway, Tiffany is already dead. In fact, Taystee is among one of the first to discover Tiffany as she passes the laundry en route to her cell. For a second time, viewers encounter Taystee holding on to a dead woman’s body, crying out for help. While it is reasonable to believe that Tiffany’s death snaps Taystee out of her own suicidal ideation, it merely prolongs her process when a guard refuses to leave Taystee’s cell that night. Taystee is forthright when Tamika comes to see her the next morning: “I don’t wanna do this no more.”⁷² However, Tamika, like Tiffany, refers to the strong black woman narrative when she insists that “tomorrow will be better.”⁷³ Taystee doesn’t buy it: “Tomorrow can also be worse. That’s been my fuckin’ experience.”⁷⁴

Although Tiffany may have beat Taystee to it, Tiffany’s death does not dissuade Taystee from taking her own life. If anything, it gives Taystee the opportunity to say goodbye to Suzanne, after which she returns to her cell, and closes the door. As she sits down on her bed and begins to unwrap the Fentanyl, a manila envelope catches her eye. A note from Tamika appears on top: “Taystee—You made this happen. Tomorrow will be BETTER. –T.”⁷⁵ Enclosed are copies of GED certificates earned by the women she tutored, including a certificate for Tiffany, who in the end, passed. It is at this point that

Taystee pivots in her thinking and decides to live. She throws herself into creating the Poussey Washington Fund, reaches a successful agreement with celebrity ex-con Judy King, and by the end of the episode, is teaching financial literacy classes to soon-to-be released women. From the perspective of McNutt, “with Taystee’s story hope wins. It isn’t the justice she deserves, but it is a force for justice nonetheless, and a fitting end to what evolved into the series’ most meaningful journey.”⁷⁶ Nothing, however, has fundamentally changed for Taystee, who must endure despite the fact and things are predicted to get worse. Tamika’s exit from her role as warden signals as much: “I am totally relieved. ‘Cause this job is too fucking much. And... those programs were never gonna work. Those women are never gonna catch a break. The system will always be what it is, and there’s not a damn thing I can do.”⁷⁷ Upon realizing she cannot create change, Tamika’s reaction undercuts the work that Taystee now finds meaning in. Tamika may be able to walk away from the prison, but Taystee remains stuck in the same situation. Taystee’s ability to positively impact women on the individual level is worthwhile, but it does little to create the structural change she longs for.

Conclusion: Abolitionist Visions

Considering suicide as a mode of queer resistance illuminates the conditions of confinement that many believe prisoners deserve to endure. In contesting the notion that life is always worth living, I point to suicide’s queer potential for people condemned to exist as socially dead subjects. In witnessing the increasingly deadly conditions of confinement that the socially dead have come to endure, suicide must be considered as a mode of resistance that is honored and respected, rather than situated as a personal failing

or pathology. For those who insist on investing in the “life saving” work of administrative suicide prevention in carceral settings, I question what type of life, exactly, we wish to promote for incarcerated people. There is a distinct difference between living and existing.

Without considering the full state of one’s life—including the multiple forms of marginalization one is subjected to—administrative suicide prevention efforts merely ask us to invest in keeping multiply marginalized people alive for the mere state-sanctioned pleasure of exercising power and punishment. The suggestion that suicide prevention strategies be improved in prisons, or that incarcerated people gain better access to mental health care, are examples of reforms that fall short of instigating meaningful structural change. In drawing upon scholars who theorize suicide as a form resistance, I risk promoting suicide among incarcerated people who struggle to survive life in prison. I caution my readers against reaching this conclusion—I do not wish to promote death, celebrate self harm, or rejoice in the fact humans are moved to the liberatory potential of death—though death certainly functions in that capacity. Rather, I wish to theorize suicide as an act queer resistance that one may find refuge in when prohibited from accessing life in a meaningful way.

When one engages with suicide as a mode of queer resistance, they react to the way in which life has been arranged into an unlivable experience. The incidence of queer resistance does not ask that we find hope in death, but rather calls for a serious (re)engagement with questions pertaining to social control and the production of social death. Queer resistance is always a response to a white supremacist, heteropatriarchal, and capitalist state that predetermines which bodies live, and which bodies die.

My call, therefore, is not to find hope in death, but to seriously engage in the task of envisioning what it means to abolish carceral systems that maintain state power. This level of deconstruction is only possible if “benevolent” practices like administrative suicide prevention are interrogated for the ways they uplift carceral projects. In offering a critical analysis of suicide, and administrative suicide prevention, I expose the ways suicide benefits the carceral state, broadly construed, by sheltering acts of brutality perpetrated by law enforcement and prison guards. The notion that administrative suicide prevention efforts have been manipulated to serve the state’s interests demonstrates just how carefully the state maintains life, especially from behind bars.

Queering the Carceral Cycle offers an historical account of the increasingly deadly forms of violence that emerged over the past seventy years, but it also offers a point of reference for activists and scholars who continue to fight for prison abolition in the twenty-first century. Throughout this dissertation’s three case studies, I have argued that queer acts of resistance have, and will continue, to prompt an increasingly violent reaction from the state. Still, I maintain that queer logics and acts of resistance will continue to carve a path toward abolition. Attempts to defeat elements of the carceral cycle, as endeavored by feminists such as Miriam Van Waters, the members of the Lexington Six, Assata Shakur, Alejandrina Torres, Siliva Baraldini, and Susan Rosenberg, can, and must be applied to the ongoing and emerging carceral logics that present in the twenty-first century. As this epilogue’s examination of *Orange is the New Black* suggests, the carceral cycle, as Michel Foucault see it, only gets us so far. To examine only the recurring production of social “deviants” into prisoners of the state, without understanding the intersecting oppressions that enable that cycle, quite literally

leads to a dead end. As such, prison abolition remains a queer *and* an intersectional project that can lead not only to the defeat of the prison, but to the annihilation of carceral logics that shape the way we think about harm and justice. Wherever the carceral cycle remains intact, queer resistance will endure.

Notes

- ¹ Adeel Hassan, “The Sandra Bland Video: What We Know,” *New York Times*, May 7, 2019.
- ² *Say Her Name: The Life and Death of Sandra Bland*, HBO, Nov. 9, 2018, directed by Kate Davis and David Hilbroner.
- ³ Debbie Nathan, “What Happened to Sandra Bland?” *The Nation*, Apr. 21, 2016.
- ⁴ *Say Her Name*, HBO, Nov. 9, 2018
- ⁵ “Fill The Void. Lift Your Voice. Say Her Name.” *African American Policy Forum*. <https://aapf.org/shn-moms-network>
- ⁶ Chloë Taylor, “Birth of the Suicidal Subject: Nelly Arcan, Michel Foucault, and Voluntary Death,” *Culture, Theory, and Critique* 56, no.2 (2015): 10.
- ⁷ Ibid.
- ⁸ Ibid., 18.
- ⁹ Ibid., 6.
- ¹⁰ Ibid., 9.
- ¹¹ Arthur W. Hepner, “Ordeal in Massachusetts: The Vindication of Dr. Van Waters,” *Harper’s Magazine*, Jun. 1949, folder 218, Papers of Miriam Van Waters, 1861-1971. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge.
- ¹² Miriam Van Waters to Arthur Hepner, July 22, 1949, folder 218, Papers of Miriam Van Waters, 1861-1971. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge.
- ¹³ Estelle B. Freedman, *Maternal Justice: Miriam Van Waters and the Female Reform Tradition* (Chicago: The University of Chicago Press, 1996): 316.
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Education

Master of Arts, English, University of Kentucky, 2014

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Publications

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Scholastic and Professional Honors

- 2020 Myrle E. and Verle D. Nietzel Visiting Distinguished Faculty Program Award, Graduate School, University of Kentucky
- 2019 College of Arts & Sciences Dean’s Fellowship, University of Kentucky
- 2018 Graduate Fellowship, Office for Policy Studies on Violence Against Women, University of Kentucky
Schlesinger Library Dissertation Grant, Radcliffe Institute for Advanced Study, Harvard University
College of Arts & Sciences Certificate of Outstanding Teaching, University of Kentucky
- 2017 Bonnie Jean Cox Graduate Research Award, University of Kentucky
College of Arts & Sciences Research Stipend, University of Kentucky
Inclusive Excellence Student Program Grant, University of Kentucky
Participant, Project Narrative Summer Institute, The Ohio State University
- 2016 Presentation U! Graduate Student Fellow, University of Kentucky
Bonnie Jean Cox Graduate Research Award, University of Kentucky
- 2015 Graduate Student Travel Grant, Northeast Modern Language Association