Securitization of Mental Health: An
Analysis of Ellen Richardson and the 'Indiscriminate Disclosure'
of Mental Health Records

by

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Abstract

This thesis applies theoretical contributions of Michel Foucault and Giorgio Agamben to provide a framework for understanding the disclosure of mental health information to U.S. authorities for the purpose of traveller preclearance screening. Exploring the implications of biopolitics and governmentality, I investigate the case of Ellen Richardson, a Toronto woman who was denied entry to the U.S. for having a failed suicide attempt on her *special interest to police* record. Beginning with Foucault's (1995) work in *Discipline and Punish: The Birth of the Prison*, this thesis explores the depths of governmental *control* and *regulation* as they pertain to the collection and disclosure of sensitive mental health information. This thesis examines how mental health has become a 'risk' metric to determine a person's inadmissibility and points to the growing reliance on police *intelligence* on attempted suicide to infer a history of mental illness as the source of contention.

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1   Chapter: Situating the Securitization of Mental Health

[...] And it is significant that through this transformation of the constitutional order (which is today underway to varying degrees in all the Western democracies) is perfectly well known to jurists and politicians, it has remained entirely unnoticed by the citizens. At the very moment when it would like to give lessons in democracy to different traditions and cultures, the political culture of the West does not realize that it has entirely lost its canon.

> —Agamben, Giorgio. 2005. *State of Exception*. Chicago: University of Chicago Press.

1.1 – Introduction

Conceived by a CBC Radio One broadcast, this thesis centres on a discussion of the intersection between human biology (including physiology) and politics. *Biopolitics*, as theorized by Michel Foucault (1995, 2003, 2008) offers an analytic to scrutinize instruments of control and regulation over human life, its processes, and the authority of knowledge and power. Highlighting the case of Ellen Richardson, the CBC Radio One broadcast investigated the "indiscriminate disclosure" (Cavoukian, 2014) of mental health information to United States (hereinafter, "U.S.") Customs and Border Protection officials. Through this discourse, my intention is – by reference to written or spoken discussion or debate – to provide a framework for understanding the political ideology engaging in a biological racism of the human body.

In Ellen Richardson's recollection of events, she affirms that her treatment by U.S. Customs and Border Protection authorities was 'completely shocking' ("Canadian woman refused U.S. entry because of depression," 2013). According to the Toronto Psychiatric Patient Advocate Office, this is not a new occurrence. More than a dozen Canadians have been subjected to secondary screening procedures only to learn that they will be denied entry to the U.S. after mental health records were disclosed (Bridge, 2011).

Drawing from Foucault's (1997; Rose et al., 2006) work on the concept of *governmentality*, this thesis will explore the ways in which the state can exercise, with precision, control and regulation of the body politic. Biopolitics, governmentality, and instruments of security are carefully articulated to mobilize mechanisms of administrative oppression that both discipline and regulate the body politic (Bell, 2006). The regulatory mechanics of biopolitics combined with the disciplining effect of security are channeled through technologies of "national security" to ensure survival, biological life, governmental powers and 'freedom' (Bell, 2006). Ironically, the same technologies in place to protect the individual liberties of the majority are the one's put in place to control and regulate personal freedoms of the minority. Through a discussion of these instruments, this thesis will identify how these technologies enable government to practice more precise forms of exclusion and isolation. Specifically, this discourse will examine exclusion and isolation as it relates to airport preclearance security screening and the manner in which persons are denied entry to the United States based on mental health criteria – a form of political isolation that relies on biological and physiological characteristics of the traveller used to group them as high risk.

Persons denied entry into the U.S. based on mental health criteria and perceived risk profile are placed in a position of uncertainty, with very few mechanisms of recourse made available to them. When U.S. Customs and Border Protection authorities deem a traveller inadmissible on the grounds of mental disorder (which is found in the *United States Immigration and Nationality Act*), they are applying a binary system to group mental illness and its perceived risk profile (Thoits, 2011; Cavoukian, 2014). Empirical studies have proven that mental illness is not binary – that is, mental health cannot be efficiently and accurately expressed using a system of numerical notation (Adam, 2013; McCarthy et al., 2015). Instead, research shows that mental disorders fall within a spectrum. There is an entire distribution consisting of various latitudes of mental illness ranging from the minute and manageable (and in some circumstances, undetectable) to the severe, debilitating mental illness (American Psychiatric Association, 2013; Adam, 2013; McCarthy et al., 2015).

Despite empirical research, Canadians are being denied entry to the U.S. based on skewed information. Upon further investigation into the disclosure of mental health information to U.S. authorities, I learned that the Royal Canadian Mounted Police (hereinafter, "RCMP") has a Memorandum of Understanding (hereinafter, "MOU") with the U.S. Federal Bureau of Investigation (hereinafter, "FBI"), Department of Homeland Security, and U.S. Customs and Border Protection granting these federal agencies access to the Canadian Police Information Centre (hereinafter, "CPIC") (Cavoukian, 2014; a discussion of what the CPIC is will follow later in this thesis).

Canadian passengers travelling to destinations in the United States are required to clear U.S. Customs at preclearance locations located in airports across Canada. It is at this juncture where we see the deployment of instruments to isolate and segregate at risk groups of people from the general population to manage and evade risk. These patterns of governmental and biopolitical rationality suggest that "rather than assuming that the risk society is inexorably extending its governmental reach, we are in the midst of a political shift in which governments are deploying risk in *changed* ways" (O'Malley, 2004). A key instrument used for the improved deployment of risk is the CPIC, which raises serious concerns about the credibility and reliability of the information exchange that occurs at the seams between two sovereign nations.

Through my analysis of the Ellen Richardson case, this thesis will examine the use of the CPIC as a tool for assessing a Canadian traveler's risk when crossing the Canada-U.S. border. This analysis entails interrogating the ways in which information contained within CPIC is entered, stored, and shared, and will illustrate the implications the CPIC database has on Canadians with a history of mental illness known to the police. In effect, I investigate how mental illness is scrutinized when attempting to clear a U.S. customs and immigration preclearance checkpoint.

Throughout the pages of this thesis, I will refer to the case study of one Ellen Richardson, a Toronto woman who was denied entry to the U.S. for a failed suicide attempt that resulted in her paraplegia in 2001; and, for making a second call to 9-1-1 in the spring of 2012, requesting emergency suicide intervention. I intend to construct my primary argument using various theoretical tools to

conceptualize a practical understanding of the workings of government at the border between international sovereign jurisdictions. Biopolitics enables the state to apply technologies of government to control and regulate the body politic. In this thesis, I argue that mental health has become the subject of increased securitization. The objective of this thesis is to identify and examine the Canadian Police Information Centre as a technology for governing the corporeal body through international lines. This thesis seeks to demonstrate how mental health criteria, which in recent years has become something in need of security, is used to screen travelers through customs and immigration checkpoints, enabling states to apply *violence* and *oppression*.

1.2 – Lines of Inquiry and Argument

The production and dissemination of knowledge by governments is a central theme throughout this thesis project. Processes of governmentality require vast amounts of knowledge on a given population to reach desired political ends. This project seeks to explain how the disclosure of mental health information, under the guise of the neoliberal expansion of police latitude, entrench the criminalization and securitization of mental health. How is the production and performance of data used to create conditions that isolate and ostracize individuals living with a mental health anomaly? The term 'anomaly' is used to categorize mental health characteristics which deviate from what is considered standard or 'normal.' I chose to use the word 'anomaly' instead of 'illness' or 'issue' because the term 'anomaly' lends to the understanding that deviations from the norm are of particular interest to U.S. Customs and Border

Protection authorities. I also chose the word anomaly because it is possible that a person may want to call 9-1-1 requesting a suicide intervention without ever being diagnosed as 'suicidal' or with mental 'illness.' Further, the *U.S. Immigration and Nationality Act* (hereinafter, "USINA") contains provisions which authorize U.S. Customs and Border Protection authorities the right to deny entry to the U.S. those with known to police drug- or alcohol-related addiction 'anomalies.' Therefore, it is not solely on the grounds of mental health that a person may be denied entry to the U.S. under s. 212 of the USINA [8 U.S.C. 1182].

In this thesis, I argue that mental health has become a concern of the security paradigm – mental 'anomolies' have emerged as an area in need of security. The objective of this thesis is to identify and examine the CPIC as it contributes to the biopolitical governance and systems of oppression and disparity. I argue that mental health criteria made available via the CPIC is subject to misrepresentation, and does not adequately determine a person's (in)admissibility based on fact.

This project will establish three key themes of preemption, precaution, and preparedness that I will arrive at through engaging with a variety of theorists, firmly rooted in the Foucauldian school of thought. The Foucauldian theoretical framework is mainly concerned with relations of power, the expansion and practice of sovereignty, and the biopolitical power and the implications it has on the body politic.

1.3 – Analytical Approach

I approach the securitization of mental health through a Foucauldian lens, along with theoretical contributions from Giorgio Agamben on sovereignty. This method entails an analysis of sovereign power as it relates to control and regulation of the corporeal body. Drawing from Foucault's work in *Discipline and Punish: The Birth of the Prison* (1995), *The Birth of Biopolitics* (2008), and Giorgio Agamben's *Homo Sacer: Sovereign Power and Bare Life* (1998), and *State of Exception* (2005), I will begin to frame my analysis of the contentious issue of the disclosure of sensitive mental health information at the Canada-U.S. border and the resulting securitization of mental health.

Furthermore, the term 'governmentality' will be used throughout this thesis to help frame an analytic of the control and regulation of the body politic. Foucault (1997; Rose et al., 2006) developed a theoretical framework to describe governmentality as the careful management of the socio-political apparatus. Disciplines such as economics, health care, fertility rates, mortality rates, policing, and security (among many other areas of specialization), may be characterized employing accurate measures taken to control and regulate the growing body politic (Rose et al., 2006, p. 87). The central theme of *governmentality* is its ability to govern at a distance. Foucault writes that governmentality can be "understood in the broad sense of techniques and procedures for directing human behavior. Government of children, government of souls and consciences, government of a household, of a state, or of oneself" (Foucault, 1997, p. 82). Modern neoliberal states employ different 'technologies of government' to mobilize various strategies to govern at a distance (Neocleous

2007; Rose et al. 2006). To the trained eye, these technologies shape individual and societal understanding of daily life. The strategic use of knowledge, therefore, is essential to the neoliberal project of governing the social apparatus through instruments of control and regulation (regulating the conduct of conduct) (de Boever, 2009; Garland, 1997; Rose et al., 2006).

Technologies of government are used to distribute statecraft into all corners of the social apparatus. Techniques for governing the conduct of conduct rely on risk and probability management as a particular way to collect data, analyze patterns, and establish a solution to evade risk (Rose et al., 2006, p. 95). Risk, however, is a political construct. It is built by way of the dissemination of the analytics of the social apparatus – things like birth and mortality rates, and crime statistics. Government's are in the business of codifying, quantifying, and articulating the unpredictable 'modernization [of] risk,' "held to have been created by the very *success* of modernity: its scale of production, its pace of innovation and its compression of time and space" (O'Malley, 2004, p. 2). Peter Bernstein and Ulrich Beck agree that risk is a 'worrying technology,' whereby, "probabilistic prediction of the future creates a 'prison' that consigns us to an endless repetition of past statistical patterns over which we have no control" (O'Malley, 2004, p. 3).

Deconstructing the neoliberal governance of risk is a fundamental element of this project. This includes, in part, a dissection of the "set of instruments employed to give social and political reality to the act of [exclusion] in which the formulation of the law consists" (Foucault, 2008, p. 254). Instruments of exclusion, which operate with the full authority of the law, are mobilized at the

edges of sovereignty where the administration freely and arbitrarily disclose sensitive traveller information.

Neocleous (2008) presupposes that the location of police work in contemporary society rests within a neoliberal technology of governance, which aims to capitalize on the commodification of policing activity. The collection of data (intelligence) is integral to modern policing, having paved the way for an entire industry of service providers, which when amalgamated, present an extensive network of security vendors (Boyle, P., 2011). What becomes apparent out of this neoliberal rationalization of police is a dichotomy between policing and security. Policing is something that everyone can contribute to, through community safety programs, neighborhood watch initiatives, and report suspicious or antisocial behavioral patterns to local authorities. Security, on the other hand, relies on intelligence gathering and has become much more complicated, involving a network of service providers (Neocleous, 2007, 2008). Like any commodity, security can be purchased and sold. Through the commodification of security arise circuits of inclusion and exclusion. Individual conduct is 'securitized' based on subjectivities and an individuals' capacity to engage in a capitalist, neoliberal rationalization of security. The included-excluded binary creates tension within society because the excluded are the unwanted, undesirable underclass who either reject or were abandoned by the existing state of affairs regarding social, political, and economic issues. The undesirable, targeted underclass groups are incompatible with the current neoliberal security agenda.

Security has become the most recently developed form of economic and social polarization. (Newburn, 2001, p. 836) Looking closer at this polarization reveals the triad of state, capitalism, and security. These three interconnected, yet seemingly autonomous enterprises operate in unison and advance the notion that the state should not be the sole provider and guarantor of security. As such, the state has entered into the business of 'ruling at a distance,' where the state allocates the responsibility of steering to the state, and rowing to the citizens (Newburn, 2001, p. 837). The state makes calculated efforts to rearticulate strategic responsibility for preventing and controlling crime among its citizenry while maintaining the precision of application through political and social mechanisms aimed at controlling economies of delinquency and crime (Newburn, 2001; Foucault, 2008). The inclusion-exclusion binary is the most prominent tool used to manage the citizenry. It is a form of risk-management, which targets emerging social order through minimizing, segregating, and 'othering' risk-associated behavior.

The unpredictability of modern-day risk perpetuates an insatiable desire for knowledge accumulation. In Richard V. Ericson and Aaron Doyle's (2004) "Catastrophe Risk, Insurance and Terrorism," they suggest that "new uncertainties are not simply 'beyond boundaries,' but are 'de-bounding' because they transcend existing boundaries" (p. 136). These emerging changes transform spatially, temporally, and socially (Ericson and Doyle, 2004). Through a critical discourse analysis, this thesis aims to identify and unpack the neoliberal rationalization of intelligence networks employed at the Canada-U.S. border to screen passengers. It is particularly interesting to engage in a detailed analysis of

the structure and performance of governmental rationality as these justifications for the expansion of police discretion will inevitably impact the governance of the social body via powers that govern the conduct of conduct. My critical discourse analysis will analyze the way biopolitical governance, systems of dominance, and inequality are enacted, reproduced, and resisted through policies and practices in the socio-legal and political context.

1.4 – Case Study Selection and Methodology

This thesis will use the case of Ellen Richardson as the central case study to expose the foundation upon which persons are denied entry to the United States. I will refer to Ellen Richardson, using her first and last names in full so that the reader does not lose sight of the fact that the disclosure of mental health information impacted the life of a normal, well-to-do Canadian citizen who was only trying to go on a much-anticipated vacation. Referring to the case as 'the Richardson case,' or simply 'Richardson' is a more mechanical practice that I have specifically chosen to avoid throughout the pages of this thesis project. The indiscriminate disclosure of sensitive mental health data affects real people trying to live their lives as best they can, and mechanical language distracts the reader from the impact the administration of government has on individuals. I would like to make it clear that Ellen Richardson's story is paradigmatic to the understanding of the art of government, and it is her story that will illustrate the need for greater restraint on the collection, storage, and dissemination of sensitive mental health data via the Canadian Police Information Centre.

I chose to focus my analysis on the single case and experience of Ellen Richardson based on a few critical components of her experience attempting to cross the Canada-U.S. border. First and foremost, the case of Ellen Richardson is significant because it has shed light on an administratively opaque system of data collection and dissemination that inadvertently affects Canadians seeking entry to the United States. Ellen Richardson's case is precisely important considering the limited amount of time she was planning on spending in the United States prior to her embarkation on a March of Dimes cruise (Eggerston, 2014); the fact that Ellen Richardson is a paraplegic and her mobility is considerably less than that of a person with full motor function of the legs and lower body; she was denied entry to the U.S. under section 212 of the USINA based on the existence of a CPIC entry in the Special Interest to Police (hereinafter, "SIP") database for a suicide attempt in 2001 and a call to 9-1-1 requesting emergency suicide intervention in 2012 (Cavoukian, 2014); and lastly, she was instructed to seek medical clearance from one of three U.S. Consulate-approved doctors practicing in Toronto. Moreover, I am compelled to share this story (even though it is not my own) and apply a theoretical interventionist approach to analyzing and interpret what I perceive to be a profound injustice. The inherent lack of transparency in security screening procedures combined with an authoritarian approach to border enforcement lends to a border security regime that is intrinsically skewed against the traveller. When coupled with a mental health episode, the result is the administration of "truth" that is institutionally authorized.

A single case study analysis, such as the Ellen Richardson case, is captivating because it provides an example of the uniqueness of the exercise of control and regulation of corporeal bodies at the seams of sovereign power. I specifically chose to use one unique case rather than a multitude of cases due to a number of factors. The narrative – written or spoken account of events – of Ellen Richardson's experience sheds light on the indiscriminate application of section 212 of the USINA may be applied in cases where mental health information may be deemed of particular interest to U.S. Customs and Border Protection authorities. It also helps to demystify the administratively complex and highly secretive nature of the CPIC databank. Ellen Richardson's case will allow me to close in on the administrative collection, storage and dissemination of mental health information, and the indiscriminate disclosure of this sensitive information to foreign authorities.

Ellen Richardson's case evokes a certain sympathy and the feeling that such abject refusal of mobility can affect nearly anyone. The USINA outlines that a person can be denied entry if they have or have had "a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others" (s. 212(a)(1)(A)(iii)(I) [8 U.S.C. 1182]). Ellen Richardson's case illustrates that even the most minute forms of mental health 'anomaly' can invoke such a hard-pressed bar of entry to the U.S.

My methodological approach to understanding the significance of the Ellen Richardson case relies on the analysis and interpretation of main bodies of knowledge, including but not limited to: Former Information and Privacy

Commissioner, Ann Cavoukian (2014) report titled, *Crossing the line: the indiscriminate disclosure of attempted suicide information to U.S. border officials via CPIC: A special investigation report*; Solicitor General of Canada (1978) report titled, *Study of police management information systems*; Parliamentary Information and Research Service (Acharya et al., 2010) report, *Biometrics and government*; along with various academic sources on governmentality, biopolitics, control and regulation. Through critical discourse analysis, my approach is to engage in a theoretical intervention using the works of Foucault (1990, 1995, 1997, 2003, 2008) and Agamben (1998, 2005) to the study of the disclosure of mental health information via the CPIC to U.S. Customs and Border Protection authorities. Further, this analysis will lend contributions to the development of understanding and knowledge on the social implications the practice of disclosing mental health information may have on subjects, and their ability to integrate with larger society. Weiss and Wodak (2003) argue that there is no guiding uniform theory established defining critical discourse analysis (CDA) (6). CDA is a richly dynamic approach to social science research and analysis, characterized by a plurality of theoretical and methodological approaches (Weiss and Wodak, 2003). My approach to this thesis project is to apply a socio-legal interdisciplinary methodology, guided by a theoretical interventionist approach, to the study of the disclosure of mental health information to third-party organizations. Through my analysis and interpretation of a single case study, Ellen Richardson, I illustrate mechanisms of neoliberal indifference and systems of oppression used to control and regulate individual mobilities.

Epistemologically, CDA differs from many other methods of socio-legal inquiry in that CDA approaches the study of written or spoken communication or debate as a means of sociological analysis. As mentioned by Weiss and Wodak (2003), there is no consistent guiding methodological approach to CDA. However, the methodological aim of a critical discourse approach remains consistent: to adequately unpack and produce awareness and understanding into the production and performance of social and political inequality, regimes of control/regulation and power/domination (Fairclough, 1995). Norman Fairclough (1995) identifies a three-dimensional framework for studying discourse: micro, meso-, and macro. This thesis will focus on one of the dimensions defined by Fairclough (1995), being 'macro'-events, characterized by organizational, political, operational, and performative discourses of social and political dominance (i.e., through the production and performance of politico-social mechanisms of power and control). I engage in a broad discussion and analysis of the social and political constructs that are engaged through the securitization of mental health.

Using CDA, this project engages in the practical and qualitative use of documentation to provide the framework for my analysis and interpretation of the 'securitization' of mental health. Using written materials (official publications and reports, annual reports and audits, newspaper excerpts, combined with theoretical academic contributions and empirical studies), I provide a background into *how* and *why* mental health discourses have come under the scrutiny of the security apparatus in recent years. For example, my use of the [former] Ontario Information and Privacy Commissioner's *special investigation*

report (Cavoukian 2014)*,* was a critical source of information, which helped shape the direction of my analysis. Additional reports include Library of Parliament publications (Acharya, Kasprzycki, and Canada, 2010), Centre for Addiction and Mental Health reports (2004 and 2014), the United States *9/11 Commission* report (2005), and the United States *National Security Strategy* report (2002). Throughout this thesis, I refer to various pieces of legislation including the *Criminal Records Act (*R.S.C., 1985, c. C-47)*, Mental Health Act (*R.S.O., 1990, c. M.7)*, Ontario Police Services Act (*R.S.O., 1990, c. P.15)*, and the *United States Immigration and Nationality Act* (8 U.S.C., 1182) (among others). The legislation was used as a source of information, specifically the *United States Immigration and Nationality Act*, to configure my analysis of the 'indiscriminate disclosure' of sensitive mental health information to U.S. Customs and Border Protection officers. Also, I apply theoretical contributions on society and power to conceptualize the dynamics between the traveller and the security apparatus. I examine the theoretical works of Foucault in Discipline and Punish (1995) and The Birth of Biopolitics (2008) to provide the reader with the conjectural framework to appreciate the linkages between power/knowledge and force/politics. Giorgio Agamben's work in Homo Sacer (1998) and State of Exception (2005) were elemental in my interpretation and application of the dynamics of sovereign power and bare life (or politically qualified life and bare life). I also use a variety of scholarly articles on a range of topics including, but not limited to, intelligence-led policing, biopolitics, risk, security, governmentality, sovereignty and suicide.

This thesis relies heavily on theoretical sampling as a means of data collection. From a theoretical sampling perspective, the process of data collection does not constitute a phase to be completed; but rather, is a process that is carried out throughout the duration of the project (Wodak and Meyer, 2001). Data collection is never entirely complete, as this body of work is not an exhaustive text on the 'securitization' of mental health. Because this thesis takes the form of an experiential sample of Ellen Richardson's story, it provides a snapshot of a landscape that is constantly changing. That being said, this thesis was purposefully limited in scope to parcel out the broad range of questions on sovereignty, security, and mobility that may arise when analyzing the Ellen Richardson narrative.

As a metric for controlling not only the volume of research collected, but also the genre, style, and discourse, each body of text was subjected to a qualitative screening practice. A qualitative assessment was used as an analytic to ensure supporting documents provided a clear and semiotic perspective concerning 'imagery,' 'body language' (including language), and 'meaning making' (Wodak and Meyer, 2001). In linguistics, the term 'semiotic' is used to describe meaning making shaped by social functions (economic, political, cultural, etc.) (Wodak and Meyer, 2001). Norman Fairclough understands everyday life to include a semiotic component. Through his postulation of CDA, Fairclough maintains that CDA provides an "analysis of the dialectical relationships between semiosis (including language) and other elements of social practice" (Wodak and Meyer, 2001). Through a qualitative assessment, I can select bodies of work which provide detailed descriptions of situations, people,

events, observations, and interactions. Qualitative assessment methods also allowed me to focus my analysis and understanding towards how people make sense of the political climate (and economy) in which we live. Through a narrow scope, using documents and other written materials (government documents, independent reports, organizational publications, news/media, and academic sources), my analysis provides a generous observation of regulatory (and governmental) processes, interactions, and behavior.

Through my approach, there is an inherent element of intertextuality underscoring the various sources used to frame my analysis. A shared understanding (and subject matter) amongst the bodies of literary work chosen to present my interpretation and analysis of the 'securitization' of mental health was necessary to frame my analysis into a few key themes: the dynamics of society and power, control and regulation of the body politic, and regimes of security permeating the social body. Also, intertextuality allowed for a layering effect whereby the sources used created a depth and perspective of the dynamics of security at the seams between two sovereign entities. For example, the special investigation report by former Ontario Information and Privacy Commissioner (Cavoukian, 2014), provides a mediation between policy and practice and highlights a security apparatus that purposefully marginalizes a particular category of person. Other sources include Foucault (1995) and Agamben (1998, 2005), which provide the theoretical framework upon which this body of work is situated.

Applying a socio-legal line of inquiry to the case of Ellen Richardson, I engage in a critical discourse analysis of the main bodies of work. I rely on a

Foucauldian perspective of discourse to seek to identify established regimes of oppression, control, and power that try to disenfranchise entire groups of people. While it is important to note that my analysis of the 'securitization' of mental health is exposed to my personal judgments and subjectivities, my analysis and interpretation of the literature remain critically reflexive (Wall et al., 2015).

From a Foucauldian perspective, critical discourse analysis engages in a discussion of the knowledge and practice of security as it relates to and impacts those living with mental 'incongruencies.' The work of former Ontario Information and Privacy Commissioner, Ann Cavoukian (2014), is a central body of text used throughout this thesis to deconstruct the various components of applying security to narratives of mental health 'incongruency.' Cavoukian's (2014) work, along with various other news sources, is also used to frame Ellen Richardson's story of being denied entry to the U.S. based on her history of attempted suicide and presumed mental "illness." To be clear, I do not denounce Ellen Richardson's mental health. The use of scare quotes on the word 'illness' is indicative of my antagonism towards the 'indiscriminate disclosure' of mental health information to U.S. authorities.

Due to my Foucauldian CDA perspective, this thesis is highly critical of sovereign power and other structures of administrative and institutionalized power and seeks to emancipate those who are subject to the will of state actors and institutions (Wall et al., 2015). For these reasons, my thesis will critically examine the use of the Canadian Police Information Centre as an administrative mechanism governed by the RCMP. In chapter two, I introduce major theoretical concepts and the governance of 'risk.' I explore how reforms of punishment have

contributed to a more sophisticated system of control and regulation of the body politic. I begin to carve out the theoretical frameworks of Michel Foucault and Giorgio Agamben, used throughout this body of work to frame my analysis of Ellen Richardson's story. Chapter three outlines the case of Ellen Richardson, as informed by former Ontario Information and Privacy Commissioner, Ann Cavoukian (2014). I provide a narrative of the Ellen Richardson story crossing the Canada-U.S. border and call into question the use of mental health information recorded in the CPIC to determine the admissibility of the traveling body politic. Giorgio Agamben's (2005) work on sovereignty proves to be especially relevant in this section as I tease out the analytics of sovereign power at the border crossing.

The fourth chapter introduces police science, as proposed by Sir William Petty, to lend to my analysis of policing bodies that actively shape the body politic. I explore the implications of these policing bodies through the experience of Ellen Richardson. It examines camp logic, as theorized by Agamben (1998), as a permeating feature of contemporary politico-social domains, and draws parallels from the experience of Ellen Richardson.

Through my critical discourse analysis, I provide an analytic to understand instruments of control and regulation employed in Ellen Richardson's case. I examine analytically the ways in which these instruments isolate Ellen Richardson's subjectivities and the ensuing projection of a stigma of lasting mental illness, perpetuated by border and law enforcement authorities. This prediction by U.S. Customs and Border Protection officers relies on the inference that Ellen Richardson's future mental health, and therefore level of perceived

risk, is predetermined by a suicide attempt that occurred in 2001. My evaluation

is centred on the use of the Canadian Police Information Centre, a database

managed by the RCMP used to disseminate police intelligence across local,

municipal and provincial policing jurisdictions, as well as federal law

enforcement agencies. In my analysis of the CPIC, I scrutinize the disclosure of

sensitive mental health information to U.S. authorities, a practice that has

resulted in a bar of entry for dozens of Canadians.

1.5 – Synopsys of Chapters

The second chapter introduces the major theorists and theoretical

concepts used throughout this thesis to identify and deconstruct the neoliberal

rationalization of the knowledge-based police economy ('culture'?). Chapter two

examines risk in light of attempted suicide as an analytic for applying regimes of

power and control.

The third chapter will provide a discourse on a key source of literature and

debate, which provides a breadth and depth to the issues facing the many

Canadians who share narratives of denial, suspicion, and mental health stigma

while trying to cross the Canada-U.S. border. This chapter will look at the

mobilization of particular state actors to act by way of the state to verify and

ensure the suitability of a specific person's travel, and will look at the use of

doctors to serve as a petty sovereign – determining the admissibility (and by

extension, rights to mobility) of patients.

The fourth chapter will explore the theoretical implications of the *United

States Immigration and Nationality Act* [8 U.S.C. 1182], section 212, "General

Classes of Aliens Ineligible to Receive Visas and Ineligible for Admission; Waivers of Inadmissibility." The Act stipulates that 'aliens found to have a physical or mental disorder, or who demonstrate (or *have* shown) behavior associated with the disorder that may pose, or has posed, a threat to persons or property is ineligible for entry to the United States' (S. 212 [8 U.S.C. 1182]). Of significance is the interpretation of the term 'alien,' which seems to imply that visitors and non-citizens of the United States are inherently suspect. The socio-legal categorization of the 'alien' serves to exaggerate the risk narrative – painting a very stark picture of the *other* and the *alien*.

The fifth and final chapter examines channels of resistance. I will look at media exposure of the disclosure of mental health information as a means of resistance. Further, I will explore the failures of CPIC and how this is one of the points at which the security apparatus stutters. Culminating in this chapter is a synopsis of arguments brought forth throughout this thesis, and some suggested areas of further research into what I suspect will be a growing area of scholarly research and debate: the securitization of mental health.

2   Chapter: Theoretical Perspectives and Key Concepts

[...] It will soon become clear that the exception is to be understood to refer to a general concept in the theory of the state, and not merely to a construct applied to any emergency decree or state of siege.

> —Schmitt, Carl. 2005. Political theology: four chapters on the concept of sovereignty. Chicago: University of Chicago Press.

This chapter seeks to outline key theorists and theories that inform an analysis of the neoliberal project of security, surveillance, and mental health. As discussed in the previous chapter, my theoretical approach to this issue is predominantly informed by the Foucauldian paradigm. I express my concern for the neoliberal project of security and risk management and the implications this has on a person's mobility rights. My analysis is supplanted with a biological racism interpretation, as informed by Foucault (2003) to interpret the jurisdictional power of the sovereign, which is most noticeably evident at its international borders. This analysis emphasizes the production and performance of security regimes that produce bio-sociological inequality and seeks to challenge existing justifications of security that create and encourage systems of oppression.

2.1 – Conceptualizing risk

This project is concerned, in part, with how the police instruments (for example, CPIC) used for documenting and reporting suicide risk are exerted in a broad sense, creating a binary system consisting of those with and without a

mental health 'anomaly.' This system ultimately fails to address the complexities of mental health and its diagnosis. Further, probability management and risk aversion techniques have become an area of keen interest in sovereign jurisdictions over the last two decades (O'Malley, 2004, 2011). Recent acts of terrorism, such as the events of 9/11 in New York and Washington, and the latest attacks across Europe, have prompted governmental administrations to respond in carefully articulated ways.

It had been noted in a report published by the U.S. National Commission (United States. Congress. House. Committee on Government Reform, 2004, 9) that the 9/11 destruction was "the consequence of a lack of imagination." As a result of this inquest was the development of a bureaucratization of imagination, and a flurry of aggressive governmental policies and legislative reforms meant to empower sovereign's use of pre-emption (O'Malley, 2011). There is a growing body of academic literature on the development and pervasiveness of risk discourses and its emergence within the political apparatus (O'Malley 2004, 2011; Rose et al., 2006; de Boever, 2009). Central to this discussion is the term 'governmentality,' a theory postulated by Michel Foucault as the careful management of the socio-political apparatus – including economics, health care, birth, death, policing, security, and disease control (Foucault, 1990; Rose et al., 2006). *Governmentality* is an art of government that requires the careful manipulation of the social apparatus to govern at a distance. It is through a critical understanding of the works of Michel Foucault, Giorgio Agamben, and Mark Neocleous that we begin to understand the relationship between the state and its subjects. This analysis will correctly underline the production and

performance of power relations between the state and the subject. The intersection between state power and biological autonomy is a critical point of examination. This approach will allow a deeper understanding of the implications of risk discourses on the biology and mobility of both the species and the subject.

Seventeenth-century disciplinary measures were characterized by extreme brutality and visibility. Foucault begins *Discipline and Punish: The Birth of the Prison* (1995) by reciting the public execution of 'Damiens the regicide.' Of particular interest throughout the recital of the execution is the way in which the human form was purposefully made public. Place de Grève, where the scaffolding was erected, and the body of Damiens reduced to a horrific spectacle, represented the intersection between the all-encompassing power of the sovereign and the body politic (Foucault, 1995, Part One: Torture, *The Body of the Condemned*). *Discipline and Punish* (Foucault, 1995) illustrates, through a genealogy of punishment and the development of the prison system, the "age of sobriety in punishment" that evolved throughout the late eighteenth-to-early-nineteenth century (p. 14). Death as a spectacle was removed from the apparatus, and what replaced death was the careful "punishment that acts in depths on the heart, the thoughts, the will, [and] the inclinations" (Foucault, 1995, p. 16). What resulted was an apparatus that punished the mind and soul rather than the body. The nineteenth century witnessed the development of a renaissance of crime and punishment – an economic realization and rationalization of crime and punishment. Egregious acts were established and punishable, and it was up to the state to ensure that the penalty fits the crime. Penal systems began to consider, in addition to: 'who committed it?' but also 'What causal factors attributed to the

commission of the offense?' (Foucault, 1995, p. 19). The nineteenth century marked a rise in the political investment in the technology of the body, characterized by knowledge and control (Foucault, 1995, p. 26).

Beginning in the eighteenth century, when a crime was committed against the state, the state began to engage in a budgetary appropriation of crime and punishment (Foucault 1995). Criminals were sentenced to machine shops where they entered "a machinery of power that explores it, breaks it down and rearranges it" until the state's needs are met, and retribution paid (Foucault, 1995, p. 138). Punishment became an industry in and of itself where criminals became regarded as individual units of economic potential. The state's role in capitalizing on the economic potential of its criminals was punishment. Eighteenth-century reformers sought to change the punitive structure so that the disposition incorporated more deterrence than merely an exercise of sovereign's coercive power. Eighteenth-century punishment reforms saw a shift from the body as the kernel of punitive power, to the mind and soul as the fundamental element in the disciplinary mechanism (Foucault, 1995, p. 8). The ceremonial ritual of punishment so familiar to the seventeenth and early-eighteenth centuries survived through the advent of new legal and administrative architecture (Foucault, 1995, p. 8). Eventually, the spectacle of the scaffold was replaced with the trial and the sentencing hearing. A realignment of disciplinary measures was consistent with the intention to correct and improve behavior. The concept of punishment no longer required taking life; instead, disciplinary actions that controlled the mind were considered more efficient than a penalty

that executed the body. For more heinous crimes, punishment could be articulated to affect the soul.

Reformers of punishment emphasized 'humanity' and 'measure' metrics as fundamental principles upon which to calculate discipline (Foucault, 1995, p. 75). Reform of corporeal punishment sought increasingly more calculable and governmentalized sentences, which affected the mind and soul rather than the body. When a crime was committed against the state, the state would confine the offender into a mechanism of retribution to extract labor to reimburse the state for their malfeasance. In essence, the body of the offender enters into an articulate administration of power that strategically analyzes and reorganizes the criminal into a means of capital accumulation (Foucault, 1995, p. 138). The reorganization of the criminal is significant because it allowed for strategic allocation of power and called for more effective and efficient punishment. The underlying concept lies within the *appropriation* of the criminal – it would be more beneficial to the state to seize an individual and extract capital through forced labor that is equivalent to the nature of their felony than to sentence an offender to capital punishment (Foucault, 1995, p. 109).

This shift in discipline coincided with the development of capital accumulation of wealth and the establishment of property rights. The eighteenth century boasted a prosperous agriculture-based economy, which emphasized property rights and an intolerance of violations of these rights (Foucault, 1995; Foucault, 2008). The bourgeoisies who were endowed with property rights exercised these rights over the peasantry, who relied on free property rights for survival (Foucault, 1995, p. 85). This system of property rights was built to

exclude those without property rights, making vagrancy explicitly illegal
(Foucault 1995, 85).

Foucault's theoretical work on the evolution of power over life and death,
which metamorphosed into two fundamental conceptual tools, the body as a
machine and the body as a species, is used to frame our understanding of
biopolitics (Foucault, 2003, p. 139). Interventions and regulatory controls that
focused on the body as a machine worked to optimize its usefulness, its
capabilities, its docility, and its integration into economic and political systems of
trade and industry (Foucault, 1990, p. 139; Foucault, 2008). Interventions and
regulatory controls that focused on the body as a species were concerned with the
biological mechanics and processes of the species, including birth and mortality,
health, life expectancy, along with the conditions which can cause these to vary
(Foucault 1990, p. 139). Biopolitics, as theorized by Foucault (1990, p. 139),
refers to the biopolitical administration of bodies – it consists of disciplinary and
regulatory control mechanisms to facilitate the administration and management
of the population.

Eighteenth-century disciplinary reforms caused a shift in the sovereign's
power over death. The right *to take life or let live* was supplanted with the careful
management of bodies and biopolitical control and regulation to *make live or let
die* (Foucault, 2003, p. 241). The organization of life gave rise to increased access
to the body as a machine. The administration of life involves continuous
mechanisms of control and corrective measures needed to be implemented to
distribute life through value and utility (Foucault, 1990, p. 144). Foucault (1990,
p. 147-48) describes this transformation from the *symbolics of blood* to *an*

analytics of sexuality. Contemporary society is characterized with the analytics of

sexuality – mechanisms of control and regulation of the body, life, factors which

contribute to proliferation, and factors that encourage the species, it's stamina,

and its utility (Foucault, 1990, p. 147). As a result of the transformation of

analytics of blood to sexuality, sovereign power is no longer deductive in nature;

rather, power is characterized by the production and performance of the species.

Sovereign power operates at the level of the individual and the level of the body

politic, modulating behavior from birth until death. Instruments of power work

on the potential of the body politic as a whole – micro level to macro level –

power functions on the production of norms. Disciplinary action is distinct in

that it relies on a microphysics of the population.

A new racism modeled on the friend-enemy distinction came to the fore at

the end of the nineteenth century (Foucault, 2003, p. 258). Biopower was

realized to be an essential component of this new study of racism. Biopolitics was

required to legitimize waging war on a population whose lives were in the hands

of the sovereign to protect, control, regulate, and multiply (Foucault, 2003, p.

258). The same parallel can be drawn for criminality. "Once the mechanism of

biocriminal was called upon to make it possible to execute or banish criminals,

criminality was conceptualized in racist terms. The same applies to madness, and

the same applied to various *anomalies*." (emphasis added; Foucault, 2003, p.

258) We are seeing this anomaly occur at the intersection between the security

industry and the mental health discipline, whereby those who have experienced a

failed suicide attempt or who have expressed suicidal ideation, where a police

dispatch is requested, are being logged into police Records Management Systems

(hereinafter, "RMS") and databases (for example, the *Special Interest to Police* repository of the Canadian Police Information Centre) as "high risk" and special interest to police. Biological racism justified the death function of the political economy of the biopolitical by appealing to the assumption that the [biopolitical] death of the other made it biologically possible for one to become stronger to the extent that one is a member of a people or a nation (Foucault, 2003, p. 258).

Biological fragmentation relies on a binary between the friend-enemy distinction. Foucault (2003, p. 255) states that, "racism makes it possible to establish a relationship between my life and the death of the other that is not a military or warlike relationship of confrontation, but a biological-type relationship: 'The more inferior species die out, the more abnormal individuals are eliminated, the fewer degenerates there will be in the species as a whole, and the more I—as a species rather than individual—can live, the stronger I will be, the more vigorous I will be. I will be able to proliferate.'" The practice of biological racism uses the power of normalization to exercise the right to decide over life and death. When Foucault (2003, p. 256) theorizes about the practice and performance of the right to kill, it is not an insinuation of death per se; rather, Foucault is suggesting a political death, exclusion, rejection, or outcast. The functioning of biopolitical power works to justify the need to 'kill' people, to create a biological fragmentation, by appealing to evolutionary theoretical arguments, which at their roots is a racialized justification (Foucault, 2003, p. 257).

The art of government refers to various programs and policies of governing, used to regulate the social apparatus – these are careful technologies

designed to disseminate statecraft into all corners of the social apparatus

(Foucault, 1990; Rose et al., 2006). Insurance policies, statistics, and audits are

subtle forms of governing at a distance which is characterized by their respective

ways of data collection, analysis, and dissemination. We can come to understand

the systematic computational analysis of the *risk discourse* through the art of

government. Contemporary risks, such as radicalization and terrorism, pose

unique challenges to the neoliberal governance of the conduct of conduct due to a

lack of pre-existing analytics about the management of risk populations (Rose et

al., 2006).

Central to Foucault's theological conception is the means of control and

regulation – the powers of which are used to encourage and maintain a healthy

(and biologically pure) population. These restrictions also serve to produce and

perform systems of normalcy. New techniques of punishing relied on the

advancement of a 'technology of representation'—the success of this technology

rests on its ability to find a balance between crime and punishment (Foucault,

1995, p. 104). To function properly, Foucault (1995) identifies six 'technologies' of

discipline, which must adhere to a list of preconditions. First, punishment must

not be autocratic; there must be an immediate and transparent link between the

'resemblance, analogy, and proximity' of the crime being punished (p. 104).

Second, punishment must deter crime and instill fear of a penalty (p. 106). Third,

'temporal modulation' – the penalty must not be permanent (p. 107). Fourth,

punishment must be directed at society, not just the offender – punishment must

be accepted and redistributed throughout society (p. 108). Fifth, the utility of

punishment is in the 'learned economy of publicity' where crimes will activate

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certain penal mechanisms, which relies on the legal architecture legislating punishment (p. 110). Sixth, the inversion of the traditional discourse of the offence, which once idealized the criminal, will identify the offender as an enemy; a new discussion of the calculated fear of punishment will be circulated (p. 112).

The realignment of punishment in the eighteenth century gave rise to the Western administrative appropriation of the biopolitical truth that the human species are a species that can be managed according to the various fields that cover their morphology, physiology, anatomy, behavior, origin, and distribution (Foucault, 2007, p. 16; Rose et al., 2006). These six criteria, as outlined in Foucault's (1995) work, are part of a larger political apparatus used to make calculations, disseminate data sets, foster a more economically productive workforce, educate, and strengthen the political economy (p. 205). Forms of 'political technology' organize power, make calculations, and disseminate data sets with the intended aim of making subjects more economically productive, spread education, increase morality, and strengthen social forces (Foucault, 1995, p. 205). Instruments of political authority are also used to establish mechanisms to guide and control basic biological characteristics of the human species (Foucault, 2007, p. 16). Through the breakdown of gestures and the codification of the natural self, biopolitical power can exercise its jurisdiction over the human body. Biopolitical power is organized to ensure deviations from the norm (prescribed and accepted behavior) are swiftly corrected. Mechanisms of control and regulation, upon which the biopolitical rely on, can be drawn from architecture, urban planning, the management of the timetable, education and health care. Biopolitical power relies on the visibility of its subjects to impose

self-regulation and docility (Foucault, 1995, p. 200). Through this authority, the state can impose, for example, inoculations, as a mechanism to govern at a distance. Inoculations are a biopolitical instrument used to produce immunities to specific diseases and help to ensure a healthy and productive workforce.

From a utilitarian point of view, risk operates as a regulatory mechanism to identify actions or behaviors that pose a threat or danger to an identifiable geographical territory and geo-specific groups of people; utilitarian in the sense that risk serves a practical function within the state apparatus and corporate matrix (Foucault, 1990). The risk narrative that drives many governmental programs and policy developments rely on the uncertainty of risk. The risk story can manifest itself in a variety of forms, making it difficult to categorize accurately or detect. The lack of imagination used to foresee the utilization of a fully loaded commercial airliner as a weapon, such as in the events of 9/11, caused a global shift in the political administration and management of risk (United States. Congress, 2004; O'Malley, 2011). Bureaucratic technologies have been radically amended to implement policies and programs with significant leverage to adapt to various unforeseen (unimagined) events. O'Malley (2011) notes this adjustment of the state apparatus as the development of a bureaucratization of imagination beginning to creep into the political apparatus. O'Malley (2011) stresses that for countries to respond to risk-hysteria, "governmental prediction must abandon the precise probability techniques of risk, and enter into the realms of 'uncertainty' – meaning that only estimation and imagination can prepare us for the future" (p. 183). It is important to note that while risk probability techniques are 'abandoned,' technologies of risk

remain a pervasive means to mobilize, produce, and perform desired political ends.

The central body of intelligence governing the international dissemination of knowledge between Canada and the United States is the *Canadian Police Information Centre*. The CPIC is a comprehensive database maintained by the RCMP, which provides information on crimes and criminals, including: driver's licenses and license plates, stolen vehicle and boat registry, warrants for arrest, missing persons and property, criminal history records, digital fingerprint records, firearm registration, and missing children (Canada. Solicitor General of Canada, 1978; Canadian Electronic Library (Firm), and Privacy Commissioner of Canada, 2011). In 2009, the CPIC held more than 10 million records and processed an excess of 20 million queries through 40,000 access points (Canadian Electronic Library (Firm), and Privacy Commissioner of Canada, 2011; Cavoukian, 2014). A memorandum of understanding exists between the RCMP and the United States Federal Bureau of Investigation, whereby access to the CPIC is granted (Cavoukian, 2014, p. 2). An MOU is created when an agency requests access to the CPIC system (Canadian Electronic Library (Firm), and Privacy Commissioner of Canada, 2011). The FBI has since disseminated access to the CPIC to the US Department of Homeland Security, which includes U.S. Customs and Border Protection (Cavoukian, 2014, p. 2). Identifying the implications of this disclosure of information and the manner in which this information is used will be the focus of this thesis project.

According to the Declaration of Principles outlined in section one of the Ontario *Police Services Act*, police services have a duty "to ensure the safety and

security of all persons and property in Ontario" (Ontario Police Services Act, R.S.O. 1990, c. P.15). The role of policing jurisdictions in Ontario (and across the country) is increasingly interconnected with individuals who suffer from mental health and addiction issues (Cavoukian, 2014; Centre for Addiction and Mental Health, 2004). As such, contemporary policing requires resources for the growing number of police encounters with subjects who may be experiencing or living with mental health concerns. In 2007, Ontario police saw over 40,000 police encounters with persons living with mental illness, with 16,000 of them involving apprehensions under the *Mental Health Act* (Centre for Addiction and Mental Health, 2014).

2.2 – The Governance of Risk Populations

According to a special investigation report by the former Ontario Information and Privacy Commissioner (Cavoukian, 2014, p. 2), the issue at large concerns the disclosure of attempted suicide to U.S. officials employing the CPIC. Cavoukian (2014) found that recording failed suicide attempts in the CPIC results in disclosures under the *Municipal Freedom of Information and Protection of Privacy Act* and the *Freedom of Information and Protection of Privacy Act*. Further, it was discovered that police jurisdictions practice exclusive discretion as to the information transmitted to the CPIC, which includes failed suicide attempts. According to the Declaration of Principles, S. 1 of the *Ontario Police Service Act*, police services have a duty "to ensure the safety and security of all

persons and property in Ontario" (Ontario Police Services Act, R.S.O. 1990, c. P.15).

The USINA governs the eligibility requirements for persons seeking an entry Visa, immigration, or traveling to the U.S. for business or leisure. Section 212 of the USINA identifies classes of persons ('aliens') who are ineligible, and thereby inadmissible to the U.S. on health-related grounds (8 U.S.C. 1182) (Canadian Woman Refused U.S. Entry Because of Depression 2013). Section 212 (*a*) defines these categories of persons as those who have been found to share the following characteristics:

- "Have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;" or,

- "Have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior" (S. 212 (a) [8 U.S.C. 1182]).

It is within the scope of this piece of legislation upon which Canadians have been denied entry to the U.S. based on skewed data found in the CPIC that we will focus. What is particularly interesting is that while Canadian police jurisdictions have operational latitude in determining what information to record in the CPIC, there is no obligation for police to investigate further failed suicide attempts or to update electronic files should the subject seek medical help.

The USINA is a legislative tool used to control mobility. It operates in a racialized mode of classification whereby the individual body of the traveler is subject to technologies of estimation and risk management used to determine one's admissibility. This racism is not exercised via ethnicity so much so as it is used via biological characteristics. The state cannot enact interventions and regulatory controls on the social body without an element of biological fragmentation, which is most noticeably visible at the border between sovereign jurisdictions (Foucault, 2003, p. 255). Estimation and imagination seek to mobilize a discourse of foresight to anticipate potential high-risk behavior and to respond pre-emptively. Foucault's work on the art of government, technologies of power, and governmentality are particularly useful to this discussion. Foucault writes, "[...] investigations concerning madness, disease, delinquency, [and] sexuality... [are] to show how the coupling of a set of practices and a regime of truth form an apparatus (*dispositif*) of knowledge-power that effectively marks out in reality that which does not exist and legitimately submits it to the division between true and false" (Foucault, 2008, p. 19). In this reiteration of power relations, Foucault (2008) explains that power is exercised via the discretion to *make die or let live*. In line with this logic is the idea that power is deductive – it is only evidenced in the subtraction of life (Foucault, 1990, p. 136).

Security narratives have oversaturated contemporary Western political culture in that security permeates political discourse, leaving little room for 'balance' between liberties and securities. In Mark Neocleous's *Critique of Security* (2008), Neocleous unpacks the mythological balance between security and liberty state actors often latch onto as a "liberal project of 'liberty' [to affect] a

project of security" (13). This political rhetoric is grounded in the state's capacity to exercise discretionary powers. The state may act in excess of legal doctrine so long as those discretionary powers are necessary and perform a utilitarian function for the public good (Neocleous, 2008, p. 18; Agamben, 2005). Neocleous identifies the development of security as being intimately correlated with the rise of the modern state; however, as Neocleous points out, we must also acknowledge the correlation between the increase of security and "the rise of bourgeois property rights and a liberal-order building" (Neocleous, 2008, p. 30). The concept of liberty relies so heavily on security because security is fundamentally interrelated with property rights, providing a triad of political ideologies so firmly enmeshed that they appear to have been amalgamated to form one singular entity (Neocleous, 2008, p. 30). Liberty (freedom) relies on security, which is intended to protect and uphold property rights. These three elements (liberty, security, and property rights), arguably capitalistic in nature, are part and parcel of a larger political apparatus.

Ontologically, Neocleous approaches the world from a very different perspective from that of Agamben or Foucault. However, from this difference, we can come to understand that there exist overlapping themes, which enable an intersectional approach to these competing theoretical domains. Foucault's (2008) genealogical approach to biopower and disciplinary change recognizes that the reform of penal law addressed towards the end of the eighteenth century "involved an economic analysis or at any rate an economic style of reflection on politics or the exercise of power" (p. 248). Through Foucault's work on unpacking instruments for the control and regulation of the populace, we can conclude that

the direction of Foucault's analysis was fixed on an economic analysis of power

and control. The works of Foucault and Agamben illustrate that there is more to

government than meets the eye; "it involves a whole series of real instruments

which have to be employed in order to apply [government]" (Foucault, 2008, p.

254). Agamben (2005) theorizes that the state of exception is an instrument

employed by governments "to allow for the physical elimination not only of

political adversaries but of entire categories of citizens who for some reason

cannot be integrated into the political system" (p. 2). While Neocleous (2008)

outlines the development of security as being intricately connected to the rise of

the modern state, we can draw a parallel between Neocleous's work on security to

that of Agamben (2005) or Foucault (2008).

  Unlike Foucault who argues that the rise of biopower began in the

eighteenth century, Giorgio Agamben (1998) claims that biopower has always

existed – or at least for as long as sovereign jurisdictions have existed. Agamben

reminds us that life which is not politically qualified is naked life. The concept of

bare life rests on the logic of the camp, where the *homo sacer* can be killed but

not sacrificed (Agamben, 1998). Agamben writes (1998), "bare life remains

included in politics in the form of the exception, that is, as something that is

included solely through an exclusion" (p. 11). Agamben's work on the camp as the

definitive space of exception is useful in our understanding of risk discourses,

and regimes of security and surveillance, as they begin to impede on a person's

mobility by way of physiology. Physiology, being the branch of biology that deals

with the proper functioning of living organisms is important in this discussion

since numerous Canadians have been denied entry to the U.S. for having

attempted suicide – for demonstrating unusual characteristics of mental health disposition.

2.3 – Mental Health Discourses

A discussion of mental health and mobility rights is paramount to our understanding of the security regime in place to control the movement of persons at the Canada-U.S. border. As seen in the Ellen Richardson case, mental health criteria have become an interesting and problematic measure when determining the admissibility of persons at border crossings ("Canadian woman refused U.S. entry because of depression," 2013; Cavoukian, 2014). What this practice amounts to is a molecularization of risk-prone travellers – people, such as Ellen Richardson, are screened and deemed high-risk based on mental health observations via police officers, who then enter the data regarding their police encounter into the SIP database of the CPIC. While, in some regards, the CPIC is viewed as a highly sophisticated police database and tool, the method in which the information obtained within the CPIC generally, and the SIP specifically, is highly unsophisticated. Moreover, the disclosure of sensitive mental health information to foreign governments generates a regime for governing the corporeal body that is based on a molecular, biological fragmentation – or biological 'othering' – whereby foreign state actors, such as the U.S. Customs and Border Protection authority, systematically isolate and extract 'the enemy within' (Neocleous & Rigakos, 2011; Braun, 2007).

In Peggy Thoits' (2011) analysis of the stigmatization of mental health, Thoits notes that "social devaluation will produce self-devaluation" (p. 7).

According to classic labeling theory, those who are labeled as 'deviant' come to identify themselves as deviant, especially in cases where the marker is one cast by an agency of social and political control (Thoits, 2011). The stigma of mental illness begins the moment an individual enters into mental health care – they become a 'patient' of mental disorders, and at that point, the stigma of mental illness as something other, perhaps a deviant, achieves personal and social relevance (Thoits, 2011).

In 2001 Ellen Richardson was hospitalized after she attempted suicide by jumping off a Toronto city overpass; her injuries sustained in the fall resulted in her paraplegia (Cavoukian, 2014). In June 2012, Ellen Richardson's mother made a call to 9-1-1 requesting an ambulance after Ellen Richardson expressed 'suicidal thoughts and ideation' (Eggerston, 2014). In late November 2013, Ellen Richardson was denied entry to the U.S. by U.S. Customs and Border Protection authorities on the grounds of "a [previous] mental episode" in June 2012 (Eggerston, 2014). To enter the U.S. Ellen Richardson would need to obtain a medical evaluation by one of three U.S. Consulate-approved doctors operating in the greater Toronto area (Cavoukian, 2014).

The USINA outlines grounds for which persons may be denied entry to the United States. These include health-related grounds, criminal and related grounds, and security and related grounds, among others (s 212 [8 U.S.C. 1182]). Section 212(A)(I) states: any alien "to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others" is inadmissible to the United States (8 U.S.C. 1182). The act fails to define specific mental disorders that are

prohibited, leaving the legislation open to interpretation; and, it is assumed, the

Act does not stipulate a window of precaution after a mental episode has

occurred. There is one contradiction which the bill does not address: the USINA

addresses mental disorders *known* to have caused injury (and police

apprehensions under the *Mental Health Act*), and *not* mental 'anomolies' which

are inconspicuous to the layperson. As such, the application and interpretation of

the health-related provision of the USINA can at best be interpreted to be an

asymmetrical piece of legislation, or technology of government, used to

legislatively isolate entire groups of persons from entering the United States.

      The health-related provision of section 212 of the USINA is not meant to

enhance the safety and welfare of Americans so much so as it is intended to

control and exclude certain corporeal bodies who demonstrate a molecular or

biological composition deemed high-risk or dangerous. The information for

which a person may be denied entry to the U.S. based on the mental health

provision found in section 212 of the USINA, as reflected in the Ellen Richardson

case, is largely unsubstantiated observational *opinion* (Cavoukian 2014). The

information within the SIP repository of the CPIC is largely a summary of events

transcribed for police-related investigations. This information does not provide a

sufficient basis, clinical or otherwise, for which to deny persons' entry to the U.S.

      This form of administrative regime creates what Thoits (2011) calls a

'social devaluation,' whereby the subject begins to adopt the label attributed to

their character. Like many other forms of labeling, the U.S. Customs and Border

Protection authorities, under the USINA, assign travelers a distinct designation

before issuing a travelers' admissibility or inadmissibility. However, this regime

of labeling is constitutionally unsophisticated - it relies on information that is antithetical to clinical, diagnostic, or empirical fact. Instead, this system relies on the logic of *Empire* in which the sovereign exercises the policing of the social body and increased inequality and marginalization of entire groups of people (Bartholomew, 2006).

Peter Adey (2009) argues that there has been a shift in the broader policing and enforcement of airport security to include psychological, 'physiological indicators, and micro-expressive gestures.' It is through the logic of pre-emption that we see the broadening of a geography of terror (Adey, 2009). All actions, including past, present (via micro-expressions), and those yet to come are scrutinized using biopolitical techniques employed to control and regulate mobility (Adey, 2009). Throughout the early ages, movement was the cornerstone of life – mobility was essential to provide sustenance to groups of people. In contemporary society, mobility is about a quality of life. However, 'through modern regimes of border interrogations, what was once a natural right – mobility – has now come to be presented as unusual and requiring explanation' (Salter, 2008). If a person may be denied entry to the U.S. merely on the grounds of their biology, physiology, or psychology, then the logical inference is that this person is subject to discrimination based on their mental health. In effect, they are administratively 'securitized' by a bar of entry. In the case of Ellen Richardson, her mental health status as having attempted suicide in 2001 and her expression of 'suicidal ideation' in 2012 was a problem of security. The normal functioning (physiology) of Ellen Richardson's brain gave U.S. Customs and Border Protection authority the leverage to deny her entry and the audacity

to request medical clearance from a Consulate-approved physician. Mobility is stunted by 'confessionary' and investigative dynamics imposed at the border – 'producing truth [has become] a primary arrangement of modern power/knowledge regimes' (Salter, 2008).

2.4 – Situating the Administration of Risk Management

The 9/11 Commission report (United States. Congress, 2005) identified a 'lack of imagination' as one of the leading causes of the terrorist attacks on the United States. Entire teams of analysts and thinkers worked to create potential terrorist scenarios. The intelligence community failed in its ability to take seriously the threat posed by a fully loaded commercial airliner as a weapon. What came out of the report were three strategies for governing uncertainty, namely precaution, preparedness and pre-emption (O'Malley, 2011).

Deep-seated change has led to regimes of precaution that effectively stop, or attempt to stop threatening activities before they become *real* threats. The principle of *precaution* "invites one to consider the worst hypothesis (defined as 'the serious and irreversible consequence')...I must, out of precaution, imagine the worst possible, the consequence that an infinitely deceptive malicious demon could have slipped into an apparently innocent exercise" (O'Malley, 2011). The principle of precaution does not necessitate fact; rather, it is solely based on probability and chance logic.

Jeffrey Monaghan and Kevin Walby (2012) argue that Government is in the business of constructing 'terror identities,' which are based on individual subjectivities – so much so that these terror constructs can be reduced down to

physiological fragmentation of the body politic. The concept of a terror identity is

synonymous with a 'risk profile,' which can be deduced into two primary

categories: formal risk and informal risk (O'Malley, 2006). Formal risk

assessment relies on a set of verifiable information that demonstrates an

increased chance of a harmful outcome (Monaghan and Walby, 2012). This

application can include, in a medical context, an aggressive form of cancer with a

high mortality rate. Or, a person attempting to cross the Canada-U.S. border who

has multiple convictions for violent offences. On the other hand, informal risk

assessment relies on information and generalizations that are much less

substantiated. For instance, the decision to deny persons with a police

apprehension under the *Mental Health Act* entry to the U.S. because of a CPIC

entry detailing a mental health episode is largely based on loose, informal,

precautionary metadata – that is, data that provides information about other

data (Zeng and Qin, 2016). For example, the metadata made available to the U.S.

Customs and Border Protection authority during Ellen Richardson's November

2013 attempt to clear U.S. customs at Toronto Pearson International Airport

would have originated from the SIP repository of the CPIC and would likely

include date and time, injuries sustained, cause of harm (attempted suicide) –

none of which is diagnostic or clinical information.

 Risk profiles are a dangerous practice because they rely on the

establishment of a 'truth' about entire categories of people, and facilitate the

employ of police interventions on those designated as 'dangerous' or high risk

(O'Malley, 2006). In 2013, while attempting to clear U.S. customs at Toronto

Pearson International Airport, Ellen Richardson was deemed 'dangerous,' and a

'threat' to the public safety and security of American citizens from her having two previous mental health episodes in which police were dispatched for intervention. Her biometric information (photograph and fingerprints) were collected by the U.S. Customs and Border Protection authority, which has the effect of a form of 'compound discrimination' and the automatic enrollment in a 'high-risk' category of traveler (O'Malley, 2006; Thoits, 2011). The discrimination Ellen Richardson faced while attempting to cross the border is compounded when she is told that she will need to obtain medical clearance from a U.S. Consulate-approved doctor. The U.S. is effectively relying on the physician to act as petty-sovereign to determine the admissibility of a patient with which there does not exist medical history. Further, this information will be readily available to U.S. authorities each time Ellen Richardson attempts to pass a U.S. customs and immigration checkpoint.

The administration of risk management relies on formal and informal technologies for determining risk. The technology for governing borders has become increasingly more robust, including biological securitization and the development of micro-expression profiling (Pratt and Thompson, 2008). Due to the transactional nature of border crossing, U.S. Customs and Border Protection receive brief notice or little in advance information on persons seeking to cross the border. As a result of this transactional nature, the corporeal body is subject to more meticulous technologies used to fragment, isolate, and extract high-risk travelers (Pratt and Thompson, 2008).

2.5 – Border Management

The rise of information-led policing has increased the use of biological metrics – biometrics are used to identify persons convicted of criminal activity via Fingerprint Serial (FPS) numbers, DNA verification, facial recognition software, iris recognition et al. (Bell, 2006; Neocleous, 2008; Acharya, Kasprzycki, and Canada, 2010). The United States is a world leader in the administration and implementation of biometric systems, including: Integrated Automated Fingerprint Identification System (IAFIS), United States Visitor and Immigrant Status Indicator Technology (US-VISIT), Registered Traveler (RT) Program, Electronic Passport (E-Passport), and Transportation Worker Identification Credential (TWIC) (Acharya, Kasprzycki and Canada, 2010). It is through the increasingly complex and notoriously secret production and performance of biometric technology and intelligence-led policing that we see the advent of a system that was once intended to facilitate the safe movement of people, which is now being used to ostracize entire categories of persons.

The function of policing and surveillance can be characterized into two distinct categories: low policing and high policing (Luscombe and Walby, 2015). Low policing refers to the routine, street-level, investigative police work in which its foundation rests on probable grounds (Luscombe and Walby, 2015). High policing is a more sophisticated, intelligence-led form of investigation and analysis used to enhance preemption, precaution, and preparedness (Luscombe and Walby, 2015). The mechanisms employed to screen passengers through preclearance at the Canada-U.S. border are very much aligned with the practice

and performance of high policing (Neocleous, 2008; Luscombe and Walby, 2015).

'Function creep' (Schneier, 2010) at the Canada-U.S. border is another issue that is raised by the disclosure of sensitive mental health information. The term 'function creep' is used to describe the collection of data for one particular purpose that is subsequently used for another unrelated purpose (Acharya, Kasprzycki, and Canada, 2010; Schneier, 2010). In the case of Ellen Richardson, her sensitive mental health data was made available to U.S. Customs and Border Protection authorities via CPIC. In 2001, under the *Mental Health Act*, Ellen Richardson was taken into police custody after an attempted suicide. Record of this incident has been registered in the respective police jurisdiction's RMS and later in the SIP repository of the CPIC to inform future police officers should there be another apprehension under the *Mental Health Act*. The functionality of this information relevant to Canadian police jurisdictions was subject to function creep, a term developed by Schneier (2010), as this information which was once intended to inform officers of apprehensions under the *Mental Health Act* has now become a tool used to inform U.S. agents rendering decisions of traveller admissibility at an international border crossing. While Ellen Richardson's CPIC query is effectively serving two purposes, what is then created is a 'data double' – a digital duplicate file of the individual self that is set up to provide the U.S. Customs and Border Protection authority with a detailed account of traveller details and other biometric information (Adey, 2009). This information may be used to confirm traveller identity upon future border crossings and may help to inform agents where possible identity fraud is suspected. In the case of Ellen

Richardson, the next time she intends to cross the Canada-U.S. border, officials will have access to her digital photograph (taken in 2012 when she was denied entry), digital fingerprints, a record of her denied entry status to the U.S., and other relevant information (including a CPIC query). Effectively, the function creep of Ellen Richardson's past mental health episode will continue to affect her each time she attempts to travel to or through the United States.

3   Chapter: Introducing Suicide as a Metric for 'Risk'

Is it not surprising that suicide—once a crime, since it was a way to usurp the power of death which the sovereign alone, whether the one here below or the Lord above, had the right to exercise—became, in the course of the nineteenth century, one of the first conducts to enter into the sphere of sociological analysis; it testified to the individual and private right to die, at the borders and in the interstices of power that was exercised over life. This determination to die, strange and yet so persistent and constant in its manifestations, and consequently so difficult to explain as being due to particular circumstances or individual accidents, was one of the first astonishments of a society in which political power had assigned itself the task of administering life.

> —Foucault, Michel. 1980. The History of Sexuality: Volume 1: An Introduction, trans. Hurley R. New York: Vintage: 138—139.

3.1 – The Case of Ellen Richardson

The case of Ellen Richardson presents a noteworthy dichotomy in the control and regulation of persons at the Canada-U.S. border. On the one hand, sovereign powers have a vested interest in protecting their "security;" while on the contrary, citizens assume their liberties will enable them to move freely across international borders. It is the clash between security and liberty that this chapter will use the case of Ellen Richardson, a Toronto woman who was denied entry to the U.S. while attempting to clear U.S. customs at Toronto Pearson International

Airport, to illustrate the mechanisms in place used to control and regulate the body politic at the edges of sovereign power.

In late November 2013, Ellen Richardson was about to embark on an eagerly anticipated March of Dimes cruise when she was stopped by U.S. Customs and Border Protection at Toronto Pearson International Airport (Cavoukian, 2014). Ellen Richardson was photographed and fingerprinted and informed that she would require medical clearance to enter the U.S. due to a 2001 suicide attempt from which she had been hospitalized, and a later mental health episode from 2012 (Cavoukian, 2014, p. 5). Toronto Police Service first responders to Ellen Richardson's 2012 mental episode described it as a 'half-hearted' attempt to take her life (Cavoukian, 2015, p. 5). Unaware that a history of mental 'incongruency' may be cause for a bar of entry to the U.S., Ellen Richardson was astounded for a number of reasons when U.S. authorities denied her entry. The first being, how is it that her mental health information was shared with the U.S. Customs and Border Protection authority; and second, what was the relevance of this information to the public safety and security of the U.S.? Despite offering to have her psychiatrist confirm her mental health, Ellen Richardson was denied entry and informed that she would need to seek the medical clearance of a U.S. Consulate-approved physician (the cost of which would not be covered by the Ontario Health Insurance Plan (hereinafter, "OHIP") practicing in the Greater Toronto Area (hereinafter, "GTA"). There are three physicians practicing in the GTA who possess U.S. Consulate approval to conduct medical assessments on behalf of the U.S. government and to determine if the health-related grounds of inadmissibility in the USINA are demonstrated (Cavoukian, 2014, p. 7).

The use of a petty sovereign to determine the admissibility of travelers with a history of mental 'incongruency' is reminiscent of Agamben's (2005) work on the state of exception. Agamben (2005) argues that sovereign power is both inside and outside the juridical order. In his work on the state of exception, Agamben (2005) theorizes how the state proactively blurs the distinction created by juridical order, imposing instruments and practices that perpetuate a blurred "zone of indistinction" of what lies within the confines of the state and what falls outside of this legislative border. The management of *bare life*, or governmentality in Foucauldian terms, endows sovereign with the latitude to indiscriminately turn individuals into *homo sacer* – that which may be killed but not sacrificed – through the politicization of their biological existence (Agamben, 2005). Didier Bigo (2006) argues "(in)security professionals have the strategy to overstep national boundaries and form corporatist professional alliances to reinforce the credibility of their assertions and to win the internal struggles in their respective national fields" (8). Bigo's (2006) analysis on "(in)security professionals" points to the instrumental nature of these petty sovereigns for extending sovereign latitude, a practice which has impacted dozens of Canadians.

There have been other cases where Canadians have been denied entry to the U.S. due to the disclosure of mental health information. In September 2013, an Ontario woman was denied entry to the U.S. while attempting to clear U.S. Customs at Toronto Pearson International Airport. She was told that due to a previous suicide attempt from 20 years ago and because of a 9-1-1 call made a few months before to her departure, she is inadmissable based on section 212 of the USINA (Cavoukian, 2014, p. 5).

An Ontario-based lawyer was denied entry to the U.S. at the Peace Bridge

in Fort Erie, Ontario, in July 2012, after U.S. Customs and Border Protection

officials ran his information through the CPIC. They found that the Toronto

Police Service responded to the subject's residence after he mistakenly overdosed

on pills (Cavoukian, 2014, p. 6).

Another Toronto-based woman was denied entry to the U.S. in November

2010, at Toronto Pearson International Airport after U.S. Customs and Border

Protection officials ran her information through CPIC during a secondary

screening procedure (Cavoukian, 2014, p. 6). They discovered she had previously

attempted to take her life by overdosing on pills in 2006 (Cavoukian, 2014, p. 6).

She was referred to a list of U.S. Consulate-approved doctors to seek medical

clearance to enter the U.S.

3.2 – Information and Privacy Commissioner Investigation, 2014

In a 2014 special investigation report, Ann Cavoukian discovered that the

disclosure of sensitive mental health data was being released to the U.S. via the

RCMP, through access granted to the U.S. Customs and Border Protection to the

Canadian Police Information Centre (p. 8). The RCMP has a Memorandum of

Understanding with the U.S. Federal Bureau of Investigation, granting access to

the CPIC, which includes other key federal organizations with interest in national

security, including the U.S. Customs and Border Protection and the Department

of Homeland Security (Cavoukian, 2014, p. 11).

The CPIC is a Management Information System (MIS), which was the result of discussions between the Federal Attorney General and the Provincial Attorney Generals in 1966 about the need for 'automation within the police environment' (Canada. Solicitor General of Canada, 1978). The primary goal of CPIC was to facilitate the information exchange at the operational level between the various police forces in Canada (Canada. Solicitor General of Canada, 1978). The development of CPIC was approved by the Federal Treasury Board in 1967 as a computerized information system for law enforcement use to provide all Canadian law enforcement agencies with information on crimes (Canada. Solicitor General of Canada, 1978). In 1968, the RCMP recruited computer specialists from outside the police community to undertake the development and creation of the CPIC, and requested that the Federal Government subsidize the creation of an Advisory Committee of senior members of major city police forces in Canada and representatives of Federal and Provincial law enforcement agencies (Canada. Solicitor General of Canada, 1978).

The CPIC is composed of four databanks: Investigation, Intelligence, Identification, and Ancillary, which contain many files and categories contained within (Canada: Solicitor General of Canada, 1978; Canada Electronic Library (Firm), and Privacy Commissioner of Canada, 2011; Cavoukian, 2014, p. 10). Information about attempted suicides is evidenced under the SIP repository in the 'Investigation' section of the CPIC (Cavoukian, 2014). This information is used to create "caution flags" within the CPIC. Cavoukian's report (2014) shed light on the level of discretion Canadian police jurisdictions hold when recording information into the CPIC. It was discovered that the Toronto Police Service

established a blanket policy whereby information related to every suicide attempt resulting from a 9-1-1 dispatch call or apprehension under section 17 the *Mental Health Act* was to be recorded in the SIP repository of the CPIC (Cavoukian, 2014, p. 10). Section 17 of the *Mental Health Act* grants police officers the latitude to, where a person who is acting or has acted in a disorderly manner and exhibits attempts to cause personal bodily harm, is behaving violently towards others, or is demonstrating a lack of control to care for themselves, take into custody the person and take them to an appropriate place for medical examination (*Mental Health Act*, R.S.O. 1990, c. M.7). A person may be apprehended under section 17 of the *Mental Health Act* without a criminal charge – suicide (or attempted suicide) is not an offence punishable under the *Criminal Code* (R.S.C., 1985, c. C-46); however, aiding and abetting suicide is punishable under section 241 of the *Code*.

Cavoukian's special investigation report (2014) into the disclosure of sensitive mental health information ruled out the possibility of this confidential information being divulged from the Ontario Ministry of Health and Long-Term Care (hereinafter, "MOHLTC") (8). Cavoukian (2014) requested that the Minister of Health and Long-Term Care, the Honourable Deb Matthews, confirm that this sensitive mental health information was not being disclosed to U.S. officials under any past, existing, arrangement or agreement via an affidavit (p. 8). Minister Matthews agreed and delivered an affidavit to this effect.

There exists a level of variation among police services to decide the circumstances which would require a SIP record to be generated in the CPIC for an attempted suicide. As mentioned earlier, the Toronto Police Service enacted a

blanket policy whereby *all* attempted suicides were registered as a SIP entry

under the *Investigation* databank of the CPIC. The rationale for this policy being,

"these guidelines stress the importance of responding police officers having as

much information as possible concerning the mental health state of the

individuals they encountered" (Cavoukian, 2014, p. 17). The practice of recording

police responses to 9-1-1 dispatch calls for police intervention for various

circumstances is not the issue. Rather, this practice is encouraged for each police

jurisdictions' respective Records Management Systems (hereinafter, "RMS"). It is

through the disclosure of sensitive mental health information via the CPIC to

third-party organizations and foreign police agencies that problems begin to rise.

      The Toronto Police Service applied a generalized approach to suicide when

deciding to implement their blanket policy on police suicide interventions. Under

this procedure, combined with section 212 of the USINA, suicide, and thereby

mental health has been effectively designated as a risk metric in need of security.

While there is no disputing the importance of police jurisdictions recording

suicide interventions within their respective RMS, the broader question is

whether or not this information is relevant to policing at the national level, and

more importantly, the international scale. While information pertaining to

suicide calls to 9-1-1 are of interest to the safety and security of police officers and

the general public, it is important to remember that not *all* cases of attempted

suicide require a SIP entry into the CPIC, because "not all suicide attempts

involve circumstances that pose a risk of danger to police officers or others"

(Cavoukian, 2014, p. 18). The Canadian Mental Health Association (hereinafter,

"CMHA") published a report, *Violence and Mental Health: Unpacking a*

Complex Issue (Canadian Mental Health Association, 2011), which found "public misperceptions [of attempted suicide] contributed to negative attitudes and fears, which have a significant impact on the lives of people living with mental health conditions" (Cavoukian, 2014, p. 18). Schneier's (2010) interpretation of 'function creep' is applicable in the use of SIP information being used to restrict individual mobility and ostracize entire categories of people who have experienced a mental health anomaly coupled with a police apprehension under the *Mental Health Act*. Mike Salter (2007) maintains that while traveling by air, "a traveler is the author of one's identity, but not the final arbiter of his/her belonging or mobility" (p. 53).

There are circumstances where a SIP documentation would be warranted – such as if a subject were to attempt to take their life using a weapon; if the subject were in police custody during the commission of the attempted suicide; or, if the subject were to act aggressively deliberately towards police officers in an effort to encourage a lethal police response – police call this "police assisted suicide" (Cavoukian, 2014, p. 18). However, mental health professionals accept empirical research which suggests that a single suicide attempt is not an accurate indication of a subject's future behavior, nor does it *always* represent a grave risk to the public safety (Cavoukian, 2014, p. 19).

Further, information recorded in police RMS or the SIP repository of CPIC are based on observations and are not supported by clinical diagnosis. Police officers lack the clinical knowledge necessary to document properly the circumstances of an attempted suicide, which creates barriers when this information is recorded and accessed by third-party law enforcement agencies.

We have seen barriers to mobility created through the disclosure of

observation-based mental health episodes registered in the SIP repository of the

CPIC and later disclosed in real-time to external law enforcement agencies

(Cavoukian, 2014, p. 20). Other potential barriers include volunteer and

employment opportunities; however, in cases where a person may be seeking a

paid or volunteer opportunity with vulnerable individuals, section 6.3 of the

Criminal Records Act (hereinafter, "CRA") stipulates that in cases where a

person has received a record suspension, the Minister of Public Safety may

disclose information pertaining to a suspended record of a sexual nature

(Schedule II of the CRA). The Minister must be satisfied that "the disclosure is

desirable in the interests of the administration of justice or for any purpose

related to the safety or security of Canada or any state allied or associated with

Canada" (*Criminal Records Act* (R.S.C., 1985, c. C-47), s. 6(3)). While the

circumstances of the disclosure are different, the interest to the safety or security

of Canada or any allied state is synonymous. The distinction rests on the fact that

there does not exist a legislative instrument to protect the types or extent of

information disclosed to foreign third-party law enforcement authorities;

therefore, enabling the unilateral disclosure of sensitive personal information

contained within the CPIC.

The CPIC tends to be viewed as a helpful tool for law enforcement;

however, CPIC reporting of attempted suicides is an unsophisticated practice at

best. Suicide is a complex mental health anomaly that affects a broad range of

persons suffering from a variety of mental illnesses and substance dependencies.

The Diagnostic and Statistical Manual of Mental Disorders V (hereinafter,

"DSM-V") is a manual produced by the American Psychiatric Association, which outlines the characteristics and diagnosis of organic mental disorders; substance use disorders; schizophrenic, paranoia and affective disorders; anxiety and dissociative disorders; factitious and somatoform disorders; personality disorders; psychosexual disorders; infancy, childhood and adolescence disorders; eating disorders; reactive disorders; impulse control disorders; psychosomatic disorders; and multiaxial diagnosis (American Psychiatric Association 2013). The existence of an attempted suicide flag or apprehension under the *Mental Health Act* in the SIP repository of the CPIC, without proper context and clinical diagnosis, is insufficient to provide police with enough information to determine reasonable and probable grounds that the individual in question poses a threat to the public safety. Suicide is a much more complex, intersectional mental health issue that cannot be captured through observational data alone (Thoits, 2011). Observational data captured in the SIP is ancillary but is by no means diagnostic.

The SIP repository is a metadata repository – police officers enter data into the SIP that describes and gives information about other data (Zeng and Qin, 2016). The SIP is merely an ancillary tool to be used for local police jurisdictions. The disclosure of SIP metadata lends to the argument that policing is increasingly becoming driven by the collection of data. The disclosure to third-party authorities of mental health information collected under the SIP repository is analogous to casting a wide net that gathers information on *anything* and *everything*. What you end up with is an incredible amount of information without any concrete, substantive knowledge or, to use police nomenclature, *intelligence*.

3.3 – Recommendations from the Commissioner

In a special investigation report by former Ontario Information and Privacy Commissioner (Cavoukian, 2014), it was found that the disclosure of sensitive mental health information failed to comply with section 32 of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA, "the Act"), which is the Act governing municipal police services operating in Ontario. The report (2014) outlines a *Mental Health Disclosure Test*, comprised of four key circumstances upon which disclosure of mental health information would be in compliance with section 32 of the Act. These conditions include: suicide attempts involving the threat of serious violence or harm, or the actual use of serious violence or harm directed at other individuals; the suicide attempt is perceived to initiate a legal police response ("police assisted suicide"); the subject has a history of serious violence or harm to others; last, the suicide attempt occurred while the individual was in police custody (Cavoukian, 2014, p. 30). The application of this test would ensure that police services are disclosing sensitive mental health information under "limited and justifiable circumstances" (Cavoukian, Denham 2014, *National Post* May 07).

3.4 – Pacification of the 'Alien'

The term 'pacification' had a strong imperial-military connotation and was a key militaristic term used during the U.S. strategy in Vietnam from 1964-5 (Neocleous & Rigakos, 2011). In its warlike connotation, pacification was used to describe a form of military operation to achieve police and security (Neocleous & Rigakos, 2011). In this sense, pacification is used to extrapolate "'police-type

actions and constructive politico-economic programs as security is restored'"

(Neocleous & Rigakos, 2011, p. 27). Pacification, like governmentality, can be

focused at the level of the individual, the group, and the body politic. Pacification,

as a technology of government, invokes a whole series of instruments used to

regulate the body politic. Mark Neocleous and George Rigakos (2011) argue that

security is a fundamental element of pacification. In its most elemental sense,

pacification "touches on the fundamental nature of security in its most expansive

sense, involving 'police-type actions and constructive politico-economic

programs as security is restored'" (Neocleous & Rigakos, 2011, p. 27). Agamben's

(2005) discussion of the state of exception highlights the sovereign's power to

decide if and when the law applies – it is the ability to decide on the exception of

the politically qualified. The homo sacer, Agamben (1998) argues, is

indiscriminately subjected to the raw power of the sovereign.

Neocleous and Rigakos (2011) maintain that pacification is the product of

the combined application of force and politics (administration). The project of

pacification is reconcilable with Foucault's (1995) theoretical constructs of

governmentality and biopolitics because these instruments rely on discipline and

regulation – power/knowledge, destruction/reconstruction, force/politics

(administration) – to "organize everyday life through the production and

re-organization of the ideal citizen-subject" (Neocleous & Rigakos, 2011, p. 35). It

is a ubiquitous power that operates under disciplinary and administrative

regimes.

The USINA uses the term 'alien' to describe a person seeking entry to the

U.S (USINA [8 U.S.C. 1182]). Section 212 of the USINA enables the construction

of an *alien* identity based on the mental health status of a traveler wishing to enter the United States. Customs and immigrations checkpoints and administrative technologies used to screen travelers create a system that is purposefully unsympathetic and hostile towards those who fail to meet the eligibility requirements for entry to the U.S. The use of the CPIC and biometric administrative technologies are implemented at immigration checkpoints to segregate entire groups of people administratively on the basis of national and public safety and security. Interestingly, mental health 'anomolies,' particularly suicide episodes, have become an area of increased attention for border security guards. The narrative of the 'alien' is one that is synonymous with Agamben's (1995) *homo sacer* – it is fundamentally based on the relationship between the sovereign and the ban. The mobility of the homo sacer/'alien' is presented as deviant, as requiring explanation and adjudication (Salter, 2008).

The 'public safety' and 'national security' rhetoric legitimizes the securitization of the corporeal body and masks a central objective of security: *pacification*. The theoretical concept of pacification has been derived from Karl Marx's, *The Manifesto of the Communist Party*, whereby Neocleous and Rigakos deduce the process of pacification as an outcome of social instability under capitalism: "The order of capital is an order of social insecurity," which "gives rise to a politics of security" (Neocleous & Rigakos, 2011). Airport customs and immigration checkpoints can be understood "*in terms of the logic of security* as a whole: the construction of elaborate security structures targeting civilian populations in general and 'suspect communities' or the 'enemy within' in particular" (Neocleous & Rigakos, 2011). Airports function under a logic of

political and social pacification, whereby the production and performance of individual behavior and groups of action are carefully articulated around a particular regime of power (Neocleous & Rigakos, 2011). The individual, the group, and the class are subject to the logic of internal pacification to ensure the security of the airport as a pacified political, social, and economic space.

The development of advanced security screening procedures at airports is intended to generate vulnerabilities and dependencies that can have a disciplining effect on its subjects. Administrative technologies of surveillance are used to control and regulate mobilities – sorting the undesirable from the desirable (Adey, 2004). Gilles Deleuze (1992) argues that we are constantly entangled within a society of control. Nowhere is that more evident than within the walls of the airport. In modernity, the airport has become an 'environment of enclosure,' characterized by the logic of discipline and the "progressive and dispersed installation of a new system of domination" (Deleuze, 1992, p. 7).

Neocleous and Rigakos (2011) argue that pacification is not passive; rather, it is actively engaged in the allocation of security to enable the state to "present violence and war in the guise of peace" (p. 177). Pacification, as a police science, is intrinsically wed to the presupposition that war (or counter-insurgency) is imminent (Neocleous & Rigakos, 2011). Airport architecture is strategically designed with security measures in mind, working in harmony with various technologies of security. Foucault (1995) argues, "architecture [...] is no longer built simply to be seen, or to observe the external space, but to permit an internal, articulated and detailed control—to render visible those who are inside it; in more general terms, an architecture that would operate to transform

individuals: to act on those it shelters, to provide a hold on their conduct, to carry the effects of power right to them, to make it possible to know them, to alter them" (p. 172). While Foucault never theorized on airport space, in particular, his work on hospitals, prisons, and workhouses may help to inform an analysis of airport architecture and governance. Modern day airports are designed to funnel passengers through terminals – Foucault (1986) describes these spaces as "heterotopias" or spaces which are characterized by multiple layers of meaning and are linked with all other spaces. In many cases, airport corridors are equipped with cameras to detect the movement of passengers and can detect when there is a variance to the prescribed flow of passengers through a particular passage (Adey, 2004; Adey, 2009). The airport space is characterized by prescribed norms and customs of behavior. Deviations from this system of force and politics (administration) are met with swift administrative segregation and hostility.

Contemporary airports are modern-day manifestations of Sir William Petty's *London Wall Project* (Rigakos, 2009; Neocleous & Rigakos, 2011). Sir William Petty (1623-1687) is the father of political economy and an early statistician and political arithmetician (Neocleous & Rigakos, 2011). Petty's vision for a London wall was to create a system of arithmetic "'[t]o take an accompt of all persons and things going in and out of the City' and to provide '[a] foundation of libertyes, securityes, and priviledges' which included who may be allowed into the city, how their possessions should be catalogued, a taxation system, a system of management for those who were not productive, a licensing system for beggars and so forth" (Neocleous & Rigakos, 2011, p. 68). Contemporary airport

architecture goes far beyond bricks and mortar and into the realm of administrative record keeping and surveillance – it is a regime that is guarded by equal parts sword and pen (Neocleous & Rigakos, 2011).

The theoretical underpinnings of pacification help us to understand security as an interdisciplinary social science. Sir William Petty combined principles of architecture, economics, sociology, and political economy to generate statistical analyses that would later be used to propel capitalist relations of power and control (Neocleous & Rigakos, 2011). Petty perceived a need to pacify public spaces and people "to fabricate a social order based on the wage-labour system, and to inculcate a neo-liberal system through the threat of force all under the rubric of security" (Neocleous & Rigakos, 2011, p. 80).

It is important to interrogate why, in contemporary society, extensive amounts of resources – both public and private – are poured into the development of security. Customs and border protection authorities employ technologies of pacification disguised as security measures meant to protect national security and public safety. Airport officials, along with customs and border protection codify, filter, separate and exclude the undesirable from the desirable. This fragmentation has the effect of further strengthening a regime that is equal parts force and politics.

We live in an age of security fetishism whereby public and private sectors are fixated on securitizing various aspects of daily life. As biological metric technology becomes increasingly available, we can expect to see an increase in the alienation of the corporeal body based on 'biocapital' (Lock, 2001). Biocapitalism refers to the commodification of human genetic material, such as

human genome patents with the result that human genetic material becomes the private property of pharmaceutical or other companies (Lock, 2001). Margaret Lock (2001) argues that as pharmacology corporations research further into biological prospecting, we can expect to see private sector patents on human genetic material. Bruce Braun explains that "the molecularized body... has become the site of very different political rationalities, gathered around the concept of 'security'" (Braun, 2007). Administrative authorities use risk as a metric to calculate allocations of spending, urban planning, industrial development, etcetera. Airport authorities, as well as customs and immigration authorities, manage risk at the level of the individual or population based on traits that are peculiar to one's body, identity, police record, travel itinerary, and so on.

Bigo's (2006) analysis of "professionals of the management of unease" highlights a top-down approach whereby authorities anticipate the likelihood of a risk situation to materialize, and actively work to reinforce the sovereign's power to preemptively target groups of people who demonstrate threatening or abnormal characteristics. Ellen Richardson's case is unique in this regard because her risk 'analysis' was solely based on her having one previous suicide attempt and another more recent mental health episode (there was no medical record of diagnosis). These two events combined were significant enough for U.S. Customs and Border Protection authorities to deny her entry to the country, despite the fact that she would be boarding a March of Dimes cruise – a travel service for persons with specialized needs, such as paraplegia – and would have only spent a day or two on U.S. soil (Eggerston, 2014). Upon requesting entry to a country, a

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traveler must commit to a sovereign contract, which is redrawn upon each

request of entry, and requires a willing disclosure of all manner of personal

information; even so, a traveler is not granted a right of entry, only a right to ask

(Salter, 2008).

4   Chapter: Implications & Resistance

Throughout the penal ritual, from the preliminary investigation to the sentence and the final effects of the penalty, a domain has been penetrated by objects that not only duplicate, but also dissociate the juridically defined and coded objects. Psychiatric expertise, but also in a more general way criminal anthropology and the repetitive discourse of criminology, find one of their precise functions here: by solemnly inscribing offences in the field of objects susceptible of scientific knowledge, they provide the mechanisms of legal punishment with a justifiable hold not only on offences, but on individuals; not only on what they do, but also on what they are, will be, may be.

> —Foucault, M. 1995. Discipline and Punish: The Birth of the Prison. 2nd Vintage Books ed. New York: Vintage Books.

The case of Ellen Richardson illustrates the unintelligibility of the biopolitical security apparatus. In Mark Neocleous's *Critique of Security* (2008), he intends to shed light on the ways in which the master narrative of security shapes our lives, organizing subjects in such a way so as to expose the body politic to violence in defiance of the established order (p. 5). Neocleous sustains the argument that security has become a commodity, and has taken the form of the greatest fetish of the 21st century (2008, p. 9).

There are those who would take the position that there exists a balance of liberties to ensure the security of the many (Neocleous, 2008). However, this view assumes that 'balance' is the fundamental goal or purpose of a system of liberties meant to promote equality in and of the law (Neocleous, 2008). The

proposition that we must find a balance between rights and securities is desperately misguided. The concept of liberties is derived from natural law to suggest that there exists a fundamental state of existence within a society that is free from oppressive mechanisms of control and regulation (Neocleous, 2008). Liberties are protected within bodies of law, such as Canada's *Constitution Act, 1867 and 1982*, the *United Nations Declaration of Human Rights*, or *The Constitution of the United States*. Security is strictly a political technology that has become the driving force behind neoliberalism and enterprise culture (Neocleous, 2008, p. 14).

4.1 – A Brief History of the Science of Police

Petty's proposal for the 'protection and expansion of the means of the state' centers on the economic doctrine of mercantilism (Neocleous & Rigakos, 2011; Rigakos, 2009). The essential properties of mercantilism hold that the benefit of the state is also good for society. Under the economic doctrine of mercantilism, a state's power is measured by two principal characteristics; first, the wealth of the nation, measured by how much capital it generates; and second, military force. The more capital a state can accumulate the more money it can invest in building a robust military. Military force is directly tied to economic strength. Military force, in the context of the expansion and protection of the means of the state, fueled trade, created trade routes, allowed for the expansion of colonies, and the development of private markets. Therefore, the aim of the mercantilist state is to produce wealth (Rigakos, 2009).

The relationship between the sovereign and subjects is one of obedience. The body politic is seen as passive – they serve the goals that are set by the sovereign, the 'mortal God' (Rigakos, 2009). The centrality of the sovereign implies that mercantilists try to avoid any class gaining more power than they should because this would endanger the position of the sovereign (Rigakos, 2009). In other words, it is necessary to *regulate* the classes that might be a danger to the sovereign. These classes might be the emerging merchant class because of the economic power they are gaining, and the working classes because they are great in numbers. Therefore, it should be ensured that neither of these social divisions could abuse their power against the sovereign. It should be made sure that they cannot place their self-interest above the interests of the state. Through a detailed calculation of their behavior, the state can ensure docility of the body politic (Foucault, 1995, 2008; Rigakos, 2009).

The mercantilist state engages in a detailed recording and arithmetic of all economic activities within the state. Economic prosperity was directly associated with a mastering of the market forces; therefore, it follows that policing the market would ensure that there are no false shortages and violent price fluctuations and provides each member can maintain his or her subsistence in a *regular and predictable fashion* (Rigakos, 2009). There will be strict restrictions on free trade – the goal of this is to keep currency (Gold and silver) within the state. This policy shows that mercantilists see the accumulation of wealth in the treasury than the circulation of money as the symbol of power.

Mercantilism presupposes an identification of the interests of the state with those of society and operates under the assumption of governmental

intervention into economic activities. By policing the economy and the population that propel its operations, the state can ensure economic prosperity. Petty sought to implement different forms of taxation for which the monarch could adhere when deciding how to raise money for war. Petty was an advocate of consumption taxes and suggested that taxes should be sufficient to meet the needs of the various public charges (Rigakos, 2009). Petty recommended a high standard of statistical information be gathered to tax equally and proportionately.

The relationship between state and society is based on labor – the mercantilist state encouraged population growth so as to ensure a large working class to carry the economy. Petty understood capitalism was an emerging economic system and identified the source of wealth under capitalism as being human resources (labor). The state must manage society through administrative and legislative control of the population, namely the working class, to achieve greater prosperity.

4.2 – The Concept of Police

The rise of the concept of police in the Continental Europe was brought about by the culmination of shifting political, social, material, ideational, and international conventions. The beginning of a shifting political configuration brought with it a reformation or rebirth of normative institutions – a renaissance. With the collapse of the feudal system, obedience to the sovereign lost its legitimacy and the rising population began to question the state. The dependent relationship between masters and serfs began to deteriorate at the collapse of the

feudal system (Rigakos, 2009). The aristocracy found itself facing an increasingly powerful merchant class, especially in the developing towns. Consequently, increasing populations of masterless subjects began to migrate to the cities – growth of towns began to expand exponentially (Rigakos, 2009). A stronger merchant class meant that there would be new opportunities for gambling, drinking, adultery, blasphemy, and more generally, the opportunity to 'wander' much further than was traditionally found possible (Rigakos, 2009).

The emergence of police was in response to the growing concern that the new masterless population would become disorderly and to respond to an increasing concern for the protection of property rights. The concept of governing over souls was losing grip on society, and as such, God was no longer an active deterrent. In its place was the governance of man, where the state began to implement administrative and legislative regulation and control of the internal life of the community, thereby promoting the general welfare and the conditions of the good order, and the regimenting of social life. Police science became increasingly concerned with *mastering* the masterless population and imposing order (Rigakos, 2009). Controlling every aspect of civil life for the purpose of maintaining good order and prosperity were primary objectives. During the onset of police, they were mainly used as reactive ad hoc measure to address emerging social problems and crises – police science was created as a form of 'emergency legislation,' passed without breaking with legal tradition (Rigakos, 2009). The second principle of police was less reactionary and more active and conscious, taking an interventionist form of social regulation grounded on the principle of good order and common good of the population (Rigakos, 2009). Police were less

concerned with the reformation of the social body and more concerned with actively shaping the social body, according to certain ends – the protection and expansion of the means of the state.

The concept of police was a continental concept – the English system resisted the implementation of a 'police,' for the liberty of the subject (Rigakos, 2009). The idea of 'police' in Britain was in fact equivalent with 'policy,' which also derived from the old French 'policie,' and was defined as 'an organized state,' or 'an organized and established system or form of government or administration' (Rigakos, 2009). England in the seventeenth and eighteenth centuries was not an un-policed society, but the agents of policing were understood as carrying out *policy* rather than being *police*. In Britain, it was assumed that every member of society was to take an active role in the 'policing' of the state (Rigakos, 2009). The 'watchmen' system was a practice that utilized members of society – it was a public system for the administration of regulations and norms.

4.3 – Governmentality of Suicide

The concept of *police*, as illustrated by Rigakos (2009), is actively concerned with shaping the body politic through the production and performance of norms. 'Governmentality' of 'suicide' implies that there exists a strong political response to the performance of an attempted suicide. Through statistical and algorithmic analysis generated by way of the various data entry points concerning 'suicide' (for example, police RMS, and the SIP repository via the CPIC),

governments can establish an administrative response. The social science of

governmentality combines mercantilist ideas (a *regular* and *predictable*

populace) and practices with some competing principles developed under

liberalism (Tierney, 2010). One of the primary functions of governmentality

developed under mercantilism was the political concern for categories of persons

who inhabit a governed geographical territory (Tierney, 2010, p. 360). Under

mercantilism, the population is seen as a valuable resource. The stronger and

more robust populace will help generate a stronger and more robust economy,

and in turn, more powerful and more healthy state. The mercantilist conception

of 'police' was rooted in the administrative governance of a multitude of factors

affecting civic life (Tierney, 2010, p. 360). The role of policing was to ensure the

maximization of population size and growth; providing a productive and healthy

workforce; and maintaining public infrastructure so as to facilitate the movement

of goods (Tierney, 2010, p. 360).

Foucault's (1990) conception of policing in the seventeenth and eighteenth

centuries can be found in his lectures on *governmentality*, in which Foucault

examines the "'history of the pastorate [which] involves... the entire history of

human individualization in the West'" (Tierney, 2010, p. 361). The word *pastor* is

Latin for 'shepherd,' and is representative of a person who not only cares for a

flock but of each member of the herd (society). Using the employ of Christianity,

the pastorate was particularly efficient at using the almighty power of God to

control and regulate the behavior of individuals through the generation of three

core technologies for governing the population: life after death (everlasting life;

salvation); strict religious obedience to God's will; and the production of norms

(Foucault, 2008, p. 165-185). However, at the collapse of the feudal system and the rise of the Age of Enlightenment, sciences were gaining popularity and were able to explain phenomena that were otherwise taken for granted. People began questioning areas of astronomy, biology, medicine, mathematics, and physics, to name a few. As the Church's ability to satisfy these issues receded, the Age of Enlightenment paved the path for the age of reason and established a base for early modern sciences (Foucault, 2008; Rigakos, 2009).

Early modern police implemented two technologies for governing the population and for expanding state control over the populace: the social science of statistics; and bureaucratic intervention and regulation (Tierney, 2010, p. 362; Rigakos, 2009; Rigakos and Neocleous, 2011). The science of statistics continues to be used to study and measure the characteristics of a given population that occupy a geographical space. Through the science of statistics qualitative and quantitative information may be used to improve the body politic. The social science of bureaucratic interventions may be at both the individual and group level to address a broad range of social idiosyncrasies, which can include medical, social, economic, and political interventions.

The practice of suicide and the appropriate legal response had troubled European legal traditions for centuries. Throughout history, suicide has received considerable debate. Some cultures view suicide as a suitable alternative in circumstances where life had become excessively oppressive; other religious or cultural traditions viewed suicide as a deliberate violation of biblical commands against murder (Tierney, 2010, p. 365). In the late Empire of Roman civil law suicide was punishable via the Emperor seizing the property of the self-inflicted

deceased, and this practice became more centralized throughout the medieval era (Tierney, 2010, p. 365). Suicide was regarded as a serious felony in secular law in medieval England. Throughout the medieval period, many dishonorable burial practices developed in response to the egregious act of suicide (Seabourne, 2000). Most common was the forfeiture of land and goods of the offender. The seizure of property had many socio-economic impacts on family members who may have relied on the offender for their livelihoods, such as a spouse and children.

4.4 – Modeling the Securitization Agenda

Neoliberal expansion of police powers and the spread of state control and regulation in increasingly precise forms involve a violent appropriation of rights and liberties. As Foucault (2004) suggests, the technology of security "have the constant tendency to expand" (p. 54). Not only are technologies of security constantly developing, but state borders have started to bleed into each other. The U.S. operates many preclearance locations across Canada, including Ottawa MacDonald-Cartier International Airport, Montréal-Pierre Elliott Trudeau International Airport, Toronto Pearson International Airport, and Vancouver International Airport, with intentions of expanding the number of preclearance locations imminently (U.S. Customs and Border Protection, Web). Canadians traveling to the U.S. from these and other preclearance sites are required to pass customs, immigration, and agriculture inspections before arrival on U.S. soil (U.S. Customs and Border Protection, Web).

Preclearance locations, such a Toronto Pearson International Airport, contextualize how securitization – as pacification – is necessary to govern airport space and the people that pass through. Situated state racism combined with the logics of American neoliberalism, violence, and capital accumulation (Foucault, 1990) extend the reach and jurisdiction of U.S. authorities to increase efficiency (administration/politics) and meet security (force) objectives. Mechanisms of power and control work at the level of the body to modulate the individual subjectivities. Security regimes, especially, function on the potential of individual agencies and the body politic as a whole – micro level to macro level. U.S. Customs and Border Protection authorities work to define *bare life* from the politically qualified life (Agamben, 1998). Giorgio Agamben describes the concentration camp as the ultimate biopolitical space where persons may be *killed but not sacrificed* (Agamben, 1998); however, one could argue that airports have come to be governed by particular biopolitical techniques reminiscent of the logic of the camp.

The Ellen Richardson case study explores the depths of the 'risk' narrative and securitization of mental health. Two fundamental components of Agamben's theoretical conception of Homo Sacer (1998) and bare life are *bios,* which refers to politically qualified life; and *zoê,* which denotes bare life. In the case of Ellen Richardson, she experienced a form of administrative discharge as she went from the 'politically qualified life' as a Canadian citizen (with a clean criminal record) – *bios* – to life 'free of form and value' – *zoê* (Agamben, 1998). The very moment Ellen Richardson's history of mental health episodes became known to U.S. authorities was the very same moment she experienced non-politicized, naked

life – she was thrown into the camp logic, figuratively, whereby her physical body could not be 'integrated into the [American] political system' (Agamben, 2005).

Camp logic, as theorized by Agamben (1998), has become a permeating feature of the politico-social domain – it has become a fixture of contemporary politics. Contemporary states have continuously challenged the threshold upon which bare life and death intercept each other – this threshold has seen the inception of this accelerating *state of exception* exceed political practice and move into domains such as health care, security, and culture, to name a few (Agamben, 2005; Neocleous, 2008; O'Malley, 2011). While the concentration camps of the Nazi regime will remain a stark realization of camp logic, new experiences of this logic are being displaced onto larger society. Contemporary sovereign jurisdictions have seen the production and performance of the logic of *homo sacer* as being intricately merged with the letter of the law (Agamben, 2005). Enactments such as the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (hereinafter, "USA PATRIOT Act") (Neocleous, 2008), and the *National Security Strategy of the United States*, 2002 (United States. President (2001-: Bush), 2002), authorize aggressive actions such as extraordinary rendition and other pugnacious demeanor in the 'war on terror.' Through this shift in political thought, citizens have become more vulnerable to sovereign rule as biopolitical governance becomes increasingly more robust. Biopolitics continually challenge the threshold at which the political and non-political intersect, the desirable from the undesirable, the *bios* from the *zoê*.

We tend to think of sovereignty as the power to make rules and decisions over a given geographical territory. Agamben (1998) postulates that sovereign power is the unilateral capacity to decide over life and death; it is a strange and equivocal power over lives – Foucault (2003) defines this as the ability to *make live or let die*. Sovereign power, Agamben (1998) argues, is both inside and outside juridical order - such is the paradox of sovereignty. Sovereign power holds a special relationship with its subjects as it remains external to society – sovereign power remains within the state of nature while its subjects, who have surrendered their natural rights, are subjected to state rights and, at times, state violence (Agamben, 1998, 2005; Foucault, 1995).

Through modernity, sovereign power has become increasingly interested in the functions of its subjects. A function of the biopolitical state is to ensure the growth of the population and to increase potential – this is the quintessence of biopolitics. The risk associated with mental health has come to produce a *zone of indistinction* (Agamben, 2005) whereby the politically qualified life and totalitarian rule overlap and intersect. Biopolitical governance requires the organization of life, which gives increased access to the body; and, the distribution of life through value and utility (Foucault, 1990). "Such a power has to qualify, measure, appraise, and hierarchize, rather than display itself in its murderous splendor" (Foucault, 1990, p. 144). Through technologies of control and regulation, the state can introduce "intuitive, empirical, and fragmented forms [of surveillance]," which "are adjusted to phenomena of population, to the biological or biosociological processes characteristic of human masses" (Foucault, 1990, p. 250).

4.5 – Frameworks for Resistance

Structures of resistance have shed light on the contentious issue of the disclosure of police records about mental health-related information to third-party, international jurisdictions and government agencies. There exist three key frameworks that may be used to garner resistance and improve the lives of those with mental health issues, whether they are known to the police or not. Instruments of resistance include former Ontario Information and Privacy Commissioner report titled, "Crossing the Line: The Indiscriminate Disclosure of Attempted Suicide Information to U.S. Border Officials via CPIC" (Cavoukian, 2014) and the recommendations therein; media coverage; and, academic research and policy framework development.

4.5.1 – 'Crossing the Line'

Former Ontario Information and Privacy Commissioner, Ann Cavoukian (2014), published a special investigation report identifying the disclosure of attempted suicide cases as the primary issue. Throughout the investigation, the following four categories were used to create a frame of reference for the analysis and interpretation, and ultimately recommendations brought forth within the report: "(1) Does the information at issue qualify as 'personal information'?; (2) What is the purpose for which the personal information at issue was obtained or compiled?; (3) Do the police have the authority under the [Ontario Police Services] Act to disclose the information [in dispute] to other law enforcement agencies within Canada, and to border officials in the United States?; and, (4)

How long do the police maintain the SIP record of a suicide attempt on CPIC?

How, when, and on what basis should it be removed?" (Cavoukian, 2014, p. 15).

Cavoukian's (2014) analysis and interpretation of the definition of

"personal information" contained within the Ontario *Police Services Act*

determined that information recorded within the SIP repository of the CPIC

relating to a person's suicide attempt qualifies as personal information pertaining

to the subject in question. The purpose of this personal information, as

Cavoukian (2014) explains, was determined in some circumstances to serve as a

record of the incident. In other circumstances, police obtained and compiled

personal information to inform officers of the appropriate response when

responding to a 9-1-1 call, to determine a suitable response for persons in the

custody of police, and to protect the safety of police and the public.

4.5.2 – Media Coverage

Communication media and public opinion play key roles in bolstering

frameworks of resistance. Communication media (i.e., social networking, print

and electronic reporting, and smartphone resistance) enable the traveller to

'document' their experiences in real time and gives users a whole new level of

resistance through mass circulation of information and knowledge. Social

networking enables users to become 'more engaged, trusting, have more close

friends (subscribers), and become more politically active' (Hampton et al., 2011).

Through this medium of resistance, travellers and users alike are able to

shed light on policies and procedures that contribute to authoritative regimes of

power and domination. They provide an instantaneous channel for persons

experiencing discrimination, thereby prompting social dialogue and debate on issues which impact segments of the body politic. Through this channel of communication, academic researchers can 'deconstruct' the social dialogue, parceling the broader discussion into manageable areas of research and inquiry. We have seen this process unfold through the works of former Ontario Information and Privacy Commissioner, Ann Cavoukian, and through the academic pursuits of various professionals mentioned in this body of work, including but not limited to Pat O'Malley, Kevin Walby, Jeffrey Monaghan, Mark Neocleous, and Mark Salter.

4.5.3 – Academic Research and Policy Framework Development

There is a significant lack of clear guidelines for local, municipal, provincial and federal law enforcement agencies to record information in the CPIC. As mentioned in Ann Cavoukian's 2014 report, blanket policies used to guide CPIC entries are problematic in that they have the possibility of creating hegemonic practices that jeopardize *rights* and *freedoms* in exchange for law enforcement autonomy. As the story of Ellen Richardson illustrates, this autonomy has the effect of creating barriers, perpetuating stigmas, and denying persons' of their fundamental rights.

Academic literature on security studies, sovereignty, citizenship, the dynamics of power and control, and theories of the state of exception provide for a strong foundational basis upon which to ground future academic inquiry into the study of the control and regulation of mobility. As technologies for segmenting the body politic become increasingly sophisticated, it will become

ever more important for policy framework development to provide actionable

program, policy, and process development considerations, guide direction,

ensure consistency and effectiveness, and implement instruments for

process/program evaluation and accountability. Through an academic pursuit,

resistance is achieved by developing sufficient contextual logic so that sound

policies and practices may be implemented. All with a view towards

strengthening the social collective, removing barriers and restoring principles of

equity and social justice.

5   Concluding Remarks

Power constantly asks questions and questions us; it constantly investigates and records; it institutionalizes the search for the truth, professionalizes it, and rewards it. We have to produce the truth in the same way, really, that we have to produce wealth, and we have to produce the truth in order to be able to produce wealth.

> —Foucault, Michel, François Ewald, David Macey, Mauro Bertani, and Alessandro Fontana. 2003. *Society Must Be Defended: Lectures at the Collège de France, 1975-76*. 1st ed. New York: Picador.

5.1 – Summary

This thesis identifies and explains the political ideology engaged in a biological racism of the body politic. Through a critical discourse analysis, I have identified practices and policies that contribute to a system of biopolitical indifference to identifiable groups of people. These practices and policies are seen as 'othering' or isolating entire segments of the population based on shared characteristics loosely defined as 'risky.' In framing the disclosure of sensitive mental health information as the subject of increased levels of security, this thesis has explored the dynamics of control and regulation of the body politic and suggests more precise forms of exclusion are being enacted upon the social body.

Through an analysis of human biology, including physiology (the normal functioning and processes of the human form), and politics, this thesis has explored the depths of *biopolitics* from the perspective of a single subject, Ellen Richardson. Upon further investigation into the Ellen Richardson narrative, it

has become apparent that there was a multitude of political forces affecting the outcome of Ellen Richardson's attempt to clear a U.S. preclearance location at Toronto Pearson International Airport. Foucault (1995, p. 184) writes that "the power of normalization imposes homogeneity; but it individualizes by making it possible to measure gaps, to determine levels, to fix specialities and to render the differences useful by fitting them one to another." Preclearance customs, immigration, and agricultural inspection checkpoints offer an analytic into the normalizing gaze of the sovereign, making it possible to 'classify, qualify, and punish' individual travellers (Foucault, 1995).

The production and performance of narratives of mental health as being a vehicle of risk offers an analytic to the friend-enemy distinction based on the phenomena of biological fragmentation of the body politic. This experience, as illustrated through Ellen Richardson's story, demonstrates a harsh reality: perceived risk is calculated not by probability or fact, but instead is guided by a complex web of presumption and speculation. H. George Frederickson and Todd LaPorte (2002) describe this web of conjecture as being plagued by false-positives. Security and risk (terrorism) are inherently un-probabilistic – that is, they are not guided by laws, principles, or probability. You can quantify and predict the trajectory of objects using the laws of physics, but you can not (in theory or practice) extrapolate the events of one security threat to all cases (Salter, 2007). False-positives are therefore produced through the prioritization of imagination at the level of political intervention into the management of risk (Salter, 2008).

Monaghan and Walby (2012) propose that governments are in the business of constructing terror identities – identities which are used to frame our understanding of the analytics of risk and terrorism. These risk profiles are not probabilistic, however, and there exists a significant lack of analytical data capturing the number of security breaches prevented due to the production and performance of the political imagination of risk (and risk profiles). Due to the enterprising nature of security threats, 'expanding security regimes have allowed for increased aspects of the mobile body to be securitized' (Salter, 2008).

The problem with increased aspects of the travelling individual subjected to increased levels of securitization, and the underlying purpose of this thesis, is to illustrate how these expanding security regimes have a tendency to ostracize entire groups of people. This thesis has focused on mental health as a single metric used to determine a person's inadmissibility to enter the U.S., based on SIP entries within the CPIC detailing a failed suicide attempt. I have tried to deliver an in-depth critical discourse analysis of the securitization of mental health, which has led me to identify three socio-political bearings this phenomenon facilitates:

1) The corporeal body is perpetually subjected to socio-political interventions through the careful application of biopolitical mechanisms;
2) 'Risk' narratives are being written and revised based on suspicion and stigma, not truth or statistical analysis; and
3) Society tends to focus on the inconveniences of modern-day air travel but rarely tend to concentrate their attention on the increasing ways in which security has penetrated the daily lives of the body politic (Salter, 2008).

These three socio-political elements offer a way to further analyze the challenging and complex domain of socio-political security studies. Throughout this thesis, I have argued that mobility has been identified as a source of risk in and of itself. When paired with another comportment, such as a failed suicide attempt, the level of risk becomes amplified. This amplification of risk metrics has permeated contemporary society generally, and air passenger screening procedures specifically, to the point where this has become the norm. Foucault's analysis of the significance of norms has a telling effect in that power/control and force/politics operate on the production and performance of systems of normalization. The normal-abnormal, friend-enemy distinction provides the sovereign with the latitude to engage in practices that indiscriminately and politically 'other,' ostracize, and isolate entire groups of people.

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LEGISLATION:

*Criminal Code (*R.S.C., 1985, c. C-46)

Criminal Records Act (R.S.C., 1985, c. C-47)

Mental Health Act, R.S.O. 1990, c. M.7

Ontario Police Services Act, R.S.O. 1990, c. P.15.

The Constitution Act, 1867, 30 & 31 Vict, c 3

The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11

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U.S. Immigration and Nationality Act (USINA) [8 U.S.C. 1182].

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) [Public Law 107-56].

Appendix I – List of Abbreviations

CMHA	CANADIAN MENTAL HEALTH ASSOCIATION
CPIC	CANADIAN POLICE INFORMATION CENTRE
CRA	CRIMINAL RECORDS ACT
DNA	DEOXYRIBONUCLEIC ACID
DSM-V	DIAGNOSTIC AND STATISTICAL MANUAL-V (FIVE)
E-PASSPORT	ELECTRONIC PASSPORT
FPS	FINGERPRINT SERIAL NUMBER
GTA	GREATER TORONTO AREA
IAFIS	INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM
MFIPPA	MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
MOHLTC	MINISTRY OF HEALTH AND LONG-TERM CARE
OHIP	ONTARIO HEALTH INSURANCE PLAN
RCMP	ROYAL CANADIAN MOUNTED POLICE
RMS	RECORDS MANAGEMENT SYSTEM
RT	REGISTERED TRAVELER (PROGRAM)
SIP	SPECIAL INTEREST TO POLICE
TWIC	TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL
U.S.	UNITED STATES (OF AMERICA)
USA PATRIOT ACT	UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM ACT
USINA	UNITED STATES IMMIGRATION AND NATIONALITY ACT
US-VISIT	UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY