In Through the Out Door:

Women and Prison Release in New South Wales, Australia

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Abstract

Since the development of the prison as the privileged mode of punishment, the penal apparatus has been diversified, fragmented, and extended in a variety of ways. Just beyond the prison there exists another domain; one that is situated in the social body but remains inscribed in penal practices and that problematizes release from its confines. In this domain, women emerge as a distinctive category for correction and, however tacitly, remain linked to a penal exercise.

Using some of the analytical insights offered by Foucault, I explore how women, along with other groups such as Aboriginal women, emerge as a problem for penal thought and practice in the domain of prison release in New South Wales, Australia. I look at the historical emergence of women in this field and the practices, strategies, and discourses that shape a diverse but decisive understanding of their release into the world. Penal knowledges contemplate and manage women under the general rubric of two discourses: correction and transition. In the former, a 'criminal' title lends itself to various corrective and security measures that problematize women within categories of instability and vulnerability; the latter notion of transition frames prison release as an adaptation process. I argue that although women on release are expected to contribute to and participate within 'normal' processes of life, they are also managed within divisive and unifying forms of knowledge that continue to circulate them within penal thought and practice.

As the penal apparatus shapes and shifts in and out of social thought and practice, the relationship that exists between social and penal fields are made less visible. By focusing on the plays and mechanisms of power, I consider some of the more hidden operations of a penal exercise that continue to inform and shape social processes and how women in the penal apparatus are understood. This thesis thus contributes to an understanding of how social and penal arrangements continue to inform and facilitate diverse spaces and discourses of correction and intervention, despite efforts to reform or transform penal practices or liberate women from its exercise. Women are meshed in productive and restrictive social fields that may fragment penal operations, but nonetheless strengthen its necessity. By decentering the prison as the object and women as the subjects of analysis, I seek to disrupt and challenge the self-evidence of current understandings of penal and release schemes for women.
# Table of Contents

Abstract ............................................................................................................................ ii
Acknowledgements ........................................................................................................... vi
Statement of Original Authorship ..................................................................................... vii
Additional Publications ................................................................................................... viii

Introduction ....................................................................................................................... 1
Penalty, Feminism, and Politics .......................................................................................... 4
Women and Penal Release ................................................................................................. 5
Chapter Overview ............................................................................................................... 9

Chapter I .............................................................................................................................. 12
A General Practice of Release in NSW .............................................................................. 14
  Penal and Punitive Trends ............................................................................................. 16
  Women and Other Penal Categories .......................................................................... 18
Carceral Archipelago .......................................................................................................... 22
  The Social ..................................................................................................................... 23
  Politics of Discipline and Bio-Power .......................................................................... 25
  Practices of Removal and Spaces of Elimination ....................................................... 28
Women and Penal (In)Visibilities ...................................................................................... 31
  Penal Limits and Necessity ......................................................................................... 32
  Combining Social and Penal Worlds ....................................................................... 34

Chapter II ............................................................................................................................ 37
Analytical Terrain of Power ............................................................................................... 39
  Truth and the Discursive ......................................................................................... 40
  Government and Modes of Reasoning .................................................................... 41
  Subjectivity, Resistance, and Freedom ..................................................................... 43
Women, Feminism, and Penalty ......................................................................................... 46
  Avoiding a Pre-Discursive Subject ......................................................................... 47
  Essays of Refusal .................................................................................................... 48
  Feminism and Penality ............................................................................................ 51
Genealogy .......................................................................................................................... 53
  Problematisations and Agonisms ............................................................................ 54
  Reading the Archive ................................................................................................. 56

Chapter III ........................................................................................................................... 61
Colonial Release Schemes ................................................................................................. 63
  A Ticket-of-Leave Scheme ....................................................................................... 65
  Women as Disorderly and Diseased ....................................................................... 68
Central Penal Management and Scientific Discourses .................................................... 69
  The Containment and Classification of Women ....................................................... 71
  Penal Identifications and Colonial Privileges ......................................................... 72
The ‘Story’ of Reform .......................................................................................................... 74
  A Shift to Punishments and Codes of Civility ......................................................... 75
  The Convict Mark and Penal (In)Visibilities .......................................................... 76
  Early Release and Shifting Dependencies ............................................................... 77
Penal Volunteerism and Aftercare .................................................................................... 79
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the roadless traveled . . .
Statement of Original Authorship

This work contained in this thesis has not previously been submitted for a degree or a diploma in any university. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis.

Signed: __________________________________________

Date: __________________________________________
Additional Publications
by the Candidate Relevant to the Thesis but not Forming Part of it


Introduction

The hottest places in hell are reserved for those who in times of great moral crisis take a position of neutrality.

Dante’s Inferno

I dream of the intellectual destroyer of evidence and universalities ... who incessantly displaces [herself], doesn't exactly know where [she] is heading nor what [she'll] think tomorrow.

Foucault, 1989 [1996]: 225

Women in the penal system today are diversely characterized as being the fastest growing prison population, a group with multiple and overlapping disadvantages, and largely neglected from political, intellectual, and economic thought and spheres of life and labour. These more recent concerns with women as a penal population have shifted attention to discourses and practices that largely focus on the women’s social dispositions such as poverty, mental health, lack of education, and/or histories of abuse. Given this focus on women’s social makeup, emphasis is often placed on penal release schemes as a logical, if not essential, practice for women to readjust into society and to attend to their individual needs. Penal release schemes have, however, been a formative aspect of the penal apparatus prior to the establishment of the prison as the main modality of punishment and, more than serving as a ‘natural’ process of readjustment, have facilitated penal operations in establishing multiple and diverse links between the social and penalty. Tied within both social and penal thought and practice, it is through release schemes that women and other categories of people, such as Aboriginal women, are identified and shaped within specific understandings and modes of penal correction.

For this thesis, I look at the historical emergence of prison release schemes for women in New South Wales (NSW), Australia, and consider how release practices circulate and shape an understanding of women in a social-penal nexus. That is, I consider the links

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1 The use of semi-parenthesized ‘supercharged’ words reflects a correctional language that shapes penal discourses, strategies, and practices.

2 See Chapters II, IV & VI and Glossary for a definition and more thorough discussion of the penal apparatus or dispositif.
between social and penal practices and how each arena informs and shapes the other's exercise. In so doing I ask, how are the confining and forming practices and schemes of penal release linked to various institutions and knowledges? What divisions, operations, strategies, and subjectifying techniques continue to invest women in a penal domain? I argue that although the strategies and discourses that shape penal release shift and transform with varying penal reforms and initiatives, the development of these schemes has lent itself to multiple arrangements outside the prison confines that continue to enlist women within corrective arrangements and understandings. Release schemes thus serve to inform penal practice and shape how women are understood and directed, despite being understood as a practice of freedom. Furthermore, through an historical investigation of women and prison release in its singularity, I reveal that what exists today is not a natural or necessary progression in penal reform or release, but the effects of a contingency of events adapted from Australia's local character and broader discourses and practices that keep women tied, however tacitly, to penal operations.

For this work, release is considered in the diverse and multiple spaces and ways that penality and social practices intersect to maintain women within specific relays of knowledge and systems of thought and practice. In that juncture between the social and penal apparatus, a consortium of ideas, agents, and institutions contribute to and invest women within certain corrective orderings. Correction, understood here, is reflective of both the coercive and facilitative workings of penality that encourage and enforce a specific social participation. It not only consists of those aspects of penality that seek to modify or 'correct' behaviour, but broadly operates between and within the social and penal apparatus to shape women according to what is acceptable, necessary, or normal.

Central to correction are systems of identification that identify and create categories of people and establish divisions and points of intervention to facilitate corrective processes and with the effect of setting such groups apart from a more general social functioning. Within such arrangements, however, there exists a tension between those productive and facilitative strategies that seek to reintegrate women into 'normal' social processes through a notion of penal 'freedom', and the more restrictive and divisive measures that maintain women as a distinctive penal category. Although such an arrangement creates disagreements between social participation and penal correction, it also works in a fashion to restrict, compel, encourage, and enforce a certain social
participation. This constructive relationship is achieved by placing social conditions around release and through threat of removal such as returning women to prison or through forms of elimination, such as by removing social support. It is within this arrangement that the tensions co-exist to maintain women within both social and penal worlds.

For this thesis, I adopt Foucault’s genealogical method and, as my analytical framework, employ an analytics of power, particularly as it relates to Foucault’s work on modern modes of reasoning, disciplinary power, and bio-political forms of government (see Chapters I & II). Through such an analysis, I consider how women emerge as a problem for penal thought and practice and how the social formations and relays of correction around their release are made possible. Foucault, in his genealogical method, offers a way to ground experience and avoid grand or taken-for-granted narratives of progress. By focusing on the social and penal apparatus and by decentering the subject, I seek to avoid such narratives or present women within pre-discursive or unifying understandings. Through an analytics of power, I consider the elements and instruments that make the domain of women and release possible and seek to destabilize or deny some of the knowledges that assume a penal necessity and inevitability that have made release arrangements intelligible. These are the discourses, practices, and modes of reasoning that inform and accompany women on release and which some of the more traditional penal and criminological accounts, such as classical criminology, actuarial studies, or positivist understandings of women and penality, fail to consider. By situating this work within the social-penal nexus and, rather than take the prison or the women as the starting points of analysis, I locate analysis within the plays of force, material conditions, and relays of thought of penal and social apparatuses.

This work is not so much to find gaps in the literature or to make penal analysis more complete. It’s contribution is to offer an account of the domain of women and penal release and contribute to a literature that challenges some of the more rationalist understandings of penality, or what Barbara Hudson (1993) refers to as the ‘administrative’ approaches that aim to control ‘crime’ and reform ‘criminals’ and that still tend to occupy the field. In tracing the mechanisms and games of truth within this domain, I challenge narratives of progress that tend to make us believe that what exists today is somehow necessary, inevitable, or natural. I do not argue that release practices
should not exist for women, but they need not necessarily be considered in such straightforward terms.

Penalty, Feminism, and Politics
Given that this approach seeks to disrupt current thought and practice, a Foucauldian framework is often criticized for not offering a normative commitment against systems of inequality or oppression and for failing to offer alternatives to current social and political formations. As Howe (1994: 214) argues in her major work in the field of women and punishment, however, with an effort to bring women into consideration, we must also be aware of the paradox of creating and reproducing normative categories of women and repeating penalty's own will to truth. Contemplating and thus making women visible in the penal sphere also risks creating other frontiers of regulation, punishment, and the like. As Sara Ahmed notes, “any project that aims to dismantle or challenge the categories made invisible through privilege is bound to participate in the object of its critique” (2007: 150). As the penal apparatus continues to be reasoned as a necessary aspect of our civil and social world, the knowledges that fashion and support its operations also continue to occupy a privileged place.

Similarly, with a focus on women, analysis is grounded in categories and understandings of gender and sex that may also result in implicitly attending to prefigured notions and categories of women and/or penality. That is, with gender or ‘women’ as the point of departure, we risk reaffirming and reifying the identities that keep women tied to normative gender or penal constructs. Through a Foucauldian approach, there is a strategy to move beyond a politics of identity and to focus on the multiple subject constitutions and knowledge formations that underlie the production of language, culture, and norms that colonize women and others in certain ways.

This thesis is thus confronted with its own tension; a tension between offering a critical normative discourse of action for those who struggle for and with women in the penal system, and a reluctance to define those struggles within normative contexts. It is a tension between offering a normative political foundation for basing and making claims, with refusing to provide some definitive criteria by which to shape, determine and limit understandings of women and penalty. For this thesis, rather than attempt to resolve such a tension, I take up the latter part of investigating formations that emerge in the
field, not to negate the possibility of struggle, but to consider other elements of and for its exercise. In other words, I look at the formations, including the reforms, events, and struggles that have emerged to develop understandings around women in the penal apparatus, and do so to offer different insights and points of contestation.

This, of course, is not a straightforward undertaking; no less straightforward than the history of the struggles or the penal apparatus itself. Neither is this a one-sided endeavour as the struggles around the penal apparatus continue to shape, inform, and direct thought and practice. Foucault suggests that

[c]ritique doesn’t have to be the premise of a deduction which concludes: this then is what needs to be done. It should be an instrument for those who fight, those who resist and refuse what is. Its use should be in processes of conflict and confrontation, essays in refusal. It doesn’t have to lay down the law for the law. (Foucault, 1991c: 84)

Essays of refusal against a normative or unifying stance do not negate the possibility of critique, but rather shape and negotiate critique along different lines and using other points of entry. This can be done without necessarily fulfilling or falling trap to modern rationalist demands of what a critique must offer (see Chapter II). Critique can refuse what exists without offering strict terms of what is necessary or unnecessary, excessive or lacking, oppressive or emancipatory. The effects of power are multiple, diverse, and irregular; not inevitable, immutable, or strictly repressive.

Women and Penal Release

Today, prison release schemes are designed to facilitate and assist in the (re)integration of women into everyday or ‘normal’ social functioning and to promote a certain public protection. Women are managed and fashioned through gender and other penal categories that intersect with security concerns to shape intervention. As outlined in the Community and Services Policy and Procedures Manual of the NSW Department of Corrective Services, the penal service focuses on four key areas and strategies for women’s penal management and public protection:

3 (Re)integration, written in this way, highlights those penal integration strategies that enlist women within specific penal and social knowledges and sites, rather than into some assumed ‘original’ state or ‘community’.
a. The delivery of programs and services reflecting a holistic approach to women's health and well-being;

b. The coordination of programs and services in a Throughcare model as a joint effort by the custodial and community sections of the Department;

c. The provision of flexible programs for women in the areas of relationship and living skills, problem solving, alcohol and other drugs and health education, vocational training, offence specific programs and recreational activities;

d. The needs of Aboriginal women under the Department's supervision be met through the provision of culturally appropriate and gender-specific services and programs; That representatives of Aboriginal communities and organisations be involved in partnership with the Department in the development and delivery of programs and services to indigenous women. (2006 [CD version]: section 3.20.1)

With a notion of 'community' used as the resettlement apparatus and penal intervention as promoting a certain public protection, the more concentrated forms of control found within the prison are transferred and adapted to the social in more creative and flexible forms. Given the variety of identifications and 'community' engagements tied to release, various networks of obligations are established for women. Women are at once participating in broader civil, political, and economic responsibilities, while regulated to very specific sites of correction. It is not that penal operations necessarily repress or marginalize women to such spaces, but they also ensure women are actively involved in fashioning and reproducing their corrective transition. It is therefore through penal knowledges and the relations and awareness women develop with themselves and others that their correcting self emerges and a certain life of freedom can occur.

Through penal knowledges, the lives of the women are made visible in such a way that enlists them into broader social discourses and practices of correction. While the development of penal release schemes and programs suggest a transition towards a certain freedom, the development of multiple and overlapping penal categories continue to segregate and reinforce certain divisions and understandings. These reflect categories
of the person such as through race, gender, mental health, sexuality, age, and the like; as well as categories of intervention such as 'crime', poverty, employment, education, and disadvantage. These identifications and categorizations are circulated by penal knowledges that intersect with the social to affect a more decisive knowing and shaping of women. Within the spaces of a penal apparatus, penal release schemes have been central to these developments and understandings of women by facilitating links between the penal apparatus and social.

Current release schemes, in their variety, establish links and unify knowledges between the penal apparatus and social agencies, institutions, and those elements of life and labour outside the prison. As part of what is considered a tail-end service, penal release schemes and interventions are reasoned as a natural or logical step in penal practice to assist in the transition from prison to 'community'. Where it is often assumed that release schemes developed in tandem with the prison to help prisoners adapt and adjust to life outside, understood within a local and historical context of NSW, release schemes were in use prior to the predominant reliance on the prison and circulated penal populations in order to assist in the development of colonial life. It was not until tensions arose between colonial development and 'crime and punishment' discourses that the prison emerged as a central feature of punishment and regulation.

By operating as a conduit between the penal apparatus and social, release schemes assist penality in accommodating shifts in knowledge and emergent discourses that include, as noted above, current concerns with women's social disadvantage, neglect, and growing numbers in the penal system. For example, I show in Chapter V how concerns of and discourses surrounding Aboriginal women's overrepresentation in the system make use of women's 'Aboriginality' as part of a correctional shaping. Cultural differences are used to establish links between corrective operations and Aboriginal communities by providing culturally 'appropriate' and 'sensitive' penal interventions. Wrapped in a discourse of Aboriginal custom and tradition, women's 'Aboriginality' becomes a point of penal intervention. By appropriating culture, language, and custom the corrective aspects of penal operations are made more difficult to challenge. Using emergent critiques and discourses of social welfare and justice, penal practices localize women to other sites and places of correction couched in terms such as gender or culturally 'sensitive'. The arrangements and knowledges considered to counter or resist penal
discourses thus also shape and are shaped by a penal exercise; not simply through penal expansion and appropriation, but through the plays of force that fashion and condition the possibilities of ‘freedom’.

Penal reforms or challenges do not necessarily force the coercive or punitive facets to disappear, but localize such practices to other pockets throughout the social. The social, as a historical product of the various political, economic, and cultural arrangements and conditions, shapes spaces for ordering groups and individuals (see Chapter II, subsection “The Social”). The social is not equivalent to all social relations or society as a whole but designates specific sectors of society with a concern to govern through various forms of expert knowledge and social relations. In the present case, these knowledges help constitute women on release from prison as a domain of particular interventions. Barbara Cruikshank defines the social as a space “that confuses and reconstitutes the boundaries between the personal and the political, the economy and the state, the voluntary and the coercive” (1999: 6). By establishing links between the penal apparatus and the family, relationships, labour, the home, leisure, and other varying aspects of life, a diverse, fluid, and more hidden system of correction is supported. As Foucault suggests, “power is tolerable only on condition that it masks a substantial part of itself” (1980: 86). For women, this reconstitution between the social and penalty is developed around corrective features and social categories that become increasingly more refined and developed through elaborate identifications and penal and gendered knowledges.

Operating through a notion of freedom, release schemes immerse women in discourses, institutional practices, and strategies that circulate norms of stability and order and that encourage and enforce a particular social participation. Whether or not women are tied to their sentence, such as with parole orders, release schemes and knowledges are couched within terms such as transitional, facilitative, and (re)integrative to shape freedom as a privilege, responsibility, and obligation. Should the desired transitions or adaptations not take effect, inclusionary yet divisive knowledges and identifications continue to circulate and set women apart within the social in a way that facilitates removal and elimination strategies. Tied to security and a notion of freedom, penal operations are made less visible, but no less coercive or forcible.
With correctional discourses and practices shaping the possibilities of freedom, challenges and struggles to oppose penal measures or liberate women from its confines are also used to enlist women in other penal modalities and vestiges of correction. Recent collective actions against penal practices, such as those advanced within a human rights and freedom discourse, remain embedded in liberal and rationalist projects that support the usages and necessity of penal operations. As women continue to be organized in multiple and diverse corrective fields, the penal apparatus is drawn in and out of their lives at different points and times and circulates varying and unifying forms of knowledge that make it difficult to challenge its operations. Penal schemes are flexible, transformative, and complex practices embedded in historical, political, cultural, discursive, and non-discursive arrangements that make an ongoing exercise of penal operations possible.

Chapter Overview
In the first chapter, I situate this analysis within Foucault's work on disciplinary, biopolitical, and sovereign forms of power and offer a more general framework and understanding of correction, systems of identification, and penal release schemes in NSW. I also consider related work in the field and how other authors have contemplated women and/or emergent penal trends. In the second chapter, I offer a more detailed outline of Foucault's analytical and conceptual framework of power, modern modes of reasoning, and genealogical approach, and I consider some of the concerns with his work, particularly within feminist thought. I then highlight the methodological or technical aspects of this thesis with particular reference to investigating the archive, along with some of the limits of my work and approach. In Chapter III, I discuss the ordering of convict women in NSW, the colonial character of prison release, and the ticket-of-leave scheme, as it was developed prior to the usages of the prison. I also consider the period considered as the 'reform era' in penalty and highlight the role volunteer agencies played in shaping and promoting penal and release discourses around this time. In Chapter IV, I consider the shifts in penal knowledge towards more unifying and regulative penal discourses and how these were more generally applied to women. I investigate how aftercare volunteers and release schemes such as parole, further helped established routes and links for the continued circulation of penal knowledges and corrective schemes and I argue that, despite shifts in knowledge that challenged the utility of aftercare and the parole system, these well
embedded features of penalty transformed to help revitalize the links between the penal apparatus and the social. In Chapter V, following the work of several authors, I investigate how emergent feminist discourses and critiques were used as part of penal knowledge to shape women as a special penal category requiring specific interventions and how this has shaped women’s corrective management. In Chapter VI, I investigate the more subjectifying techniques of penality as they exist in the social and how, by structuring release around a notion of freedom, removal and elimination strategies are facilitated. Finally, in Chapter VII, I examine a recent turn to human rights and freedom discourses as a political strategy against penal schemes to liberate women from penal operations. I consider the limits of a notion of freedom within such an approach and consider how freedom might be contemplated within another strategic context.

The beginning of each chapter begins with two quotes; each reflecting the general theme of the chapter. The first set of quotes is drawn from Foucault while the second set is taken from social justice activists or ones used in an activist context. The quotes, on some level, both complement and contradict the other's exercise or position. This is done to reflect the diverse, competing, and overlapping elements and struggles of social and penal fields. I leave it to the reader to decide how to interpret these quotes and what is reflected between them. At the end of the thesis there is a glossary of terms of the various Foucauldian concepts defined or contextualized by Foucault, and/or how other authors have made of them. The glossary provides an additional understanding of the general framework of this thesis.

Conclusion
Through an analytics of power and a genealogical investigation of penal release schemes, this thesis reconsiders and recasts the relationship between the social and penal apparatus to show how they mutually condition each other’s possibilities and formations. By investigating the history of prison release for women as a problematization, I consider the disruptions and tensions that discursively shape penal thought and practice and how the past is reflected in our present. With such a focus, thought is resituated from the women or the prison as the subject or object of analysis to other forces of play that make up the elements and exercise of a social–penal nexus and that tend to make certain aspects of penal operations less visible. Throughout the various spaces of penal thought and practice, knowledge circulates around differences and divisions in order to address
deviations, abnormalities, incivilities, or irregularities. With penal discourse embedded in a social and political landscape, the elaborate and extensive identifications serve the shifting rationalities of penal management, while keeping corrective techniques the necessary component of how women are understood and understand themselves. Localized within unifying and divisive penal discourses that de-politicize women’s social dispositions, women are circulated in such a way that punishments, treatments, corrections, removals and, in some instances, eliminations can occur.

Despite the reforms, tensions, or shifts that arise in the field, the apparatus maintains a privileged place as it presents itself as a necessary and inevitable facet of life and embeds and informs itself within the discourses of the social. Throughout this analysis, I do not, attempt to discover what is true or false, rational or irrational, legitimate or abusive, but rather seek to trace connections between penal practices and social elements where none were thought to exist, or are considered to exist in a different way (see Foucault, 1997b: 50). As Biebricher suggests, ‘truth’, as it is commonly understood, is an obsolete category because the truth of something rests on its usefulness and not its reality (2005: 9). In such a sense of the term, I consider how truth itself makes a penal exercise possible.

Release schemes have been formative in shaping and informing penal thought and practice over time and in different spaces. It is a device used to assist in establishing penal categories, informing penal thought and practice, and circulating knowledges and populations. These arrangements have been made possible by tying penal release to a notion of freedom that ensures a certain connection between the penal apparatus and those within its circulation. Any attempts to free women from penal confines must address the very character of this type of freedom that keeps individual tied, however tacitly, to penal operations. As part of a broader project, I seek to question the truths that have been made admissible in the domain of women and prison release and to disrupt the self-evidence of how things are. Although I do not necessarily commit to normative criteria for political action, I offer other insights and open analysis to other trajectories of thought and lines of possibility in order to resituate the struggles against pervasive penal operations to other terrains.
Chapter I

Transitional and Correctional Women: Prison Release in NSW

If you have come to help me, you are wasting your time. If you have come because your liberation is bound to mine, let us work together.

Lila Watson

Do not ask who I am and do not ask me to remain the same:
leave it to our bureaucrats and our police to see that our papers are in order.

Foucault, 1972 [2002]: 19

In his lectures at the Collège de France 1974-1975 on the genealogy of abnormality, Foucault outlines two figures that emerged in the 17th and 18th centuries. The first figure was the monster whose form was in violation of both society and nature, and whose person was taken up within the juridico-biological field. The second figure that also emerged around this time, and who I am more interested in here, was the individual to be corrected. Appearing much more frequently than the monster, the individual to be corrected was regulated and fashioned within the private sphere and the public institutions adjoining or supporting it. “The individual to be corrected emerged in the play of relations of conflict and support that exist between the family and the school, workshop, street quarter, parish, church, police, and so on” (Foucault, 2003: 57-58).

This is not to say that the individual to be corrected was not taken up in juridical and medical fields, since various legalities and therapies were attached to this figure, but that given their prevalence, they emerged more of a problem for various social sites. For this thesis, I am interested in how, at least in NSW, women released from prison emerged as a specific figure to be corrected.

For this chapter, I offer a general discussion and framework of how women, as correctional figures, are invested within a social and penal nexus and consider the penal and gender analysis and literature relevant to this discussion. I also consider release practices in terms of a penal apparatus or dispositif that circulates and maintains a
specific awareness, fashioning, and circulating of women within a carceral archipelago made up of diverse social sites and institutions that reproduce corrective operations. I explore the competing arrangements of penal logics and consider how it continues to affirm a penal necessity, despite penal limits, and how such arrangements also interact to shape a more decisive knowing and ordering of women within a social–penal domain. I begin, however, with a brief description of the present general character of penal release in NSW.

Existing between penal operations and the social, women are understood in definitive ways and are accompanied by a range of interventions, strategies, and techniques that identify them within social categories for correction. Correction here is not so much an ontological condition of penality such as reform or rehabilitation, although these may be an aspect of it, but it is rather a broader technology or mechanism of power existing between and within social and penal sites. Correction is linked to strategies of normalization, discipline, and a sovereign or despotic rule to ensure a certain ordering of knowledge and circulation of ‘problem’ people and populations. Entrenched in social and penal fields, it operates at various points linked to domains of knowledge, spaces of government, and subject constitutions. Correctional aspects of release not only refer to those penal rationalities that seek to improve or normalize women, but also enforce and encourage a certain social participation, rule following, and self-awareness. Correctional schemes and management work with other power modalities to create a certain understanding or ‘truth’ and to (re)integrate or remove women from certain social operations. As something that affirms parameters and boundaries for what is acceptable, common, practiced, and so forth, correction also works along standards of what is considered reasonable, necessary, and normal; it restrains, but persuades; obligates, but invites; enforces, but allows; it can contain, but also coaxes, encourages, and insists on participation.

Throughout this Chapter and thesis, I argue that through corrective mechanisms, women are negotiated and organized within both social and penal terrains that continue to reinforce even the most subtle divisions. With women linked to ‘criminal’ titles, a notion of transition problematizes prison release as an adaptation process whereupon

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4 The social consists of diverse sites where agents, institutions, and practices intersect to create and recreate various knowledges and operations over time and space (see below for a broader discussion).
women are enlisted within various therapeutic, regulative, or rehabilitative programs and frameworks. Aligned with notions of security, stability, vulnerability, protection, and the like, penal and social operations intersect to ensure varying degrees of correctional involvement that can circulate women in and out of an active social participation. An ordering of women from the penal system to the outside world reflects elements of penality that are both productive and restrictive. This competing character of release does not necessarily operate in an antithetical manner, but facilitates the penal apparatus to shift in and out of social sites and make its operations less visible. Facilitated by elaborate systems of identification, correction serves diverse and often competing and conflicting ethos of penal management. Using the discourses and institutions throughout the social, penal release is part of a broader security strategy to advance a productive circulation of people and knowledge.

A General Practice of Release in NSW

Prison release in NSW, or what I more broadly refer to as penal release, operates at the state level. It is administered by the Probation and Parole Service of the NSW Department of Corrective Services and works in conjunction with other social institutions and agencies. The penal service is responsible for various release, sentencing, and diversion schemes characterized as ‘community corrections’ that include programs such as home detention, fine default, parole and probation orders, bonds, ‘community’ service programs, bail supervision, drug court orders, and suspended sentences. Despite the range of programs and practices included in the management of ‘community’ corrections, I am concerned with ‘transitional’ schemes — such as parole (see Appendix I for an overview), but also the other schemes more generally such as transitional centres or work release — and the discourses, strategies, and practices that accompany women with such transitional schemes. This is not to say that other ‘community’ corrective frameworks do not employ similar tactics or do not have similar effects, but that I limit investigation to this area.

Early or ‘conditional’ release schemes, such as those developed in NSW, are characterized as release from prison into ‘community’ prior to completing a full prison
sentence.\textsuperscript{6} Even though social programs and schemes are developed for those on conditional release, such as parole, penal release discourses nonetheless reach into the lives of women who are not tied to formal penal regulations (i.e. those who leave the prison upon completion of their full prison term).\textsuperscript{7} Historically, there have been a variety of schemes developed in NSW to promote and regulate penal and prison release including tickets-of-leave, release on licence, remission of sentence, pardons, and parole.\textsuperscript{8} Currently, parole and other variants such as transitional and day reporting centers, post-release hostels, intensive parole programs, home detention, electronic monitoring, and work release programs are the release mechanisms employed by the penal service (Ross, 2005: 173).

Women on release schemes, by virtue of ‘serving time’ outside the prison, are subject to the various conditions and governing authorities involved. This includes regular reporting to and visits from parole officers and aid services, undertaking specified programs, finding employment, non-association with other known ‘criminals’, urinalysis testing, and subject to progress reports and psychiatric evaluations (see Appendix II for an overview of the conditions). These strategies employ ongoing corrective features and interventions.

The fundamental aim of parole is to provide the prisoner with an incentive for rehabilitation through the prospect of early release, and perceived benefits of parole stemming from this prospect include increased likelihood of reform of prisoners and better overall prisoner discipline. Other benefits of parole include easing the transition from prison to the community through supervision, which reduces the risk of recidivism. (Simpson, 1999:1)

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\textsuperscript{6} According to the Crimes (Administration of Sentences) Act 1999, the sentencing judge imposes a minimum and maximum prison term where parole can be granted either automatically or by the NSW Parole Authority upon completion of the minimum prison term imposed (see Appendix I for a further overview). I do not include analysis of the operations of the Parole Authority in this work; see Hannah-Moffat (2004) and Silverstein (2001) for an analysis and discussion of parole decision-making practices.

\textsuperscript{7} For example, this type of release is referred to and given consideration by the penal service as a post-prison ‘community-based’ release (PPCBR) date.

\textsuperscript{8} See Chapters III and IV for a historical overview and discussion of these forms of penal release schemes in NSW.
Linked to state government and other institutions of life and labour, release schemes are organized to monitor and direct women from penal institutions to the outside world so that they can participate and contribute in particular ways — as productive workers, law-abiding citizens, caring mothers, 'pro-social' beings, and so on. An aspect of, and often central to the administering of women in the penal system, is through their 'criminal' titles. This form of title legitimates and fosters those knowledges that structure release around penal management and other institutions and agencies invested in social security, safety, public good, employment, health, and the like. The array of institutions, discourses, strategies, and interventions tied to penal management gives rise to a reliance on and predominance of penal thought and practice. As I discuss below, such trends are increasingly considered in the literature as leading to a general shift towards more punitive practices, although they are also broadly considered as reflecting a more diverse, fragmented, and fluid character of the penal apparatus.

Penal and Punitive Trends

Recent punitive trends in what are often referred to as ‘Western’ countries such as Australia, Canada, the UK, and the USA, are increasingly debated and discussed within the literature as a departure from, decline of, or crisis in modernity. David Garland (2001), in looking at an increased reliance on penal mechanisms in Britain and the US, argues that a shift towards more punitive practices began around the 1960s. This shift has seen the replacement of penal-welfare discourses of inclusion, rehabilitation, treatment, and programming with more punitive, illiberal, and even anti-modern practices. For Garland, and others, the decline of a rehabilitative ideal is increasingly replaced by broadly applied punitive and regulative sanctions and frameworks that include a heightened focus on victim suffering and compensation, prevention and public protection, a populist punitiveness politics (Bottoms, 1995), indeterminate sentencing, an increase in privatization and commercialization of policing and prisons, and a shift from social work to law enforcement (Matthews, 2002: 218).

Garland further argues that such trends have resulted in what he terms a 'criminology of the other' that targets categories or groups of people and reflects a crisis in modernity: “the depicting [of crime] in melodramatic terms, viewing it as a catastrophe, framing it in the language of warfare and social defence” (2001: 184). Similarly, these trends have also been characterized as a new penology of actuarial and risk management of 'crime'
control as opposed to a focus on transforming the ‘criminal’ (Feeley & Simon, 1992, 1994), a decivilizing process in localized sites (Pratt, 2000), an economy of excess of an emergent postmodern penality (Hallsworth, 2000, 2002, 2005), counter-modern or penal recursions produced by modernization processes (Brown, 2002a), and a freedom-depriving penalty (Beiras, 2005). Here, and very generally speaking, consideration is given to whether or not the new punitiveness (see also Pratt et al. 2005) is a reemergence or slippage of pre-modern forms of penality with a return to spectacle; a reformation of penal modern developments invested in social control, rational forms of violence, and new industrial gulags Western style (Christie, 1995); or a postmodern penality that goes beyond the parameters and politics of modernity.

There are also, however, discussions as to whether or not we are indeed witnessing such a punitive turn or post or late modern penalty. Pat O’Malley (2002) argues that it is difficult to generalize such punitive trends, particularly as seen in the US, to other local jurisdictions such as Australia. He also argues elsewhere that such trends are more of a reflection of volatile and contradictory forms of punishment (O’Malley, 1999). Penna and Yar suggest that modernity should not be understood as a uni-dimensional phenomenon, “but encompasses several conflicting and contradictory logics, experiences and representations” (2003: 470). Others suggest that penal trends reflect a mixed or hybrid model of governance. Barton (2004, 2005) directs attention to the continuing hybrid nature of semi-penal practices in women’s probation hostels where both ongoing treatment models and punitive techniques are employed and what Carlen (2002) refers to as a mixed economy of the ‘therapunitive’. Hannah-Moffat (2005) suggests that emergent risk strategies tend to inform and support an array of discursive and penal forms by linking ‘criminal risks’ with ‘social needs’ as a way to regulate women through penal knowledge (see also Chapter V). This also highlights the fluidity and flexibility of the penal apparatus to accommodate emergent and shifting knowledges. Without exhausting the list of authors who have conceptualized these hybrid fields of penalty, the diversity and competing arrangements that exist in penal thought and practice is an important focus for consideration and analysis for this thesis.

Despite shifts in penal trends — whether punitive, rehabilitative, or regulative — the forms of knowledge and power that have developed with the penal apparatus give penalties a flexible form. Diverse material, discursive, strategic, and conceptual elements
have made multiple forms of penality possible and alterable throughout history. In considering women and release practices in NSW, the discourses and programs that continue to accompany women exist in a broad and diverse field of social and penal practices that intersect and reaffirm an overall corrective ordering.

Part of what has given penality this character has been through the development of elaborate identification systems: the active detection and division of groups and individuals to facilitate regulative, disciplinary, normalizing, removal, and at times, elimination processes. Facilitated by measures of the apparatus, identification systems not only assist in identifying, cataloging, and classifying groups and individuals, but also make use of social and penal arrangements to shape a knowing of people and populations. I do not suggest here that identification systems offer the ultimate panoptic arrangement, as there exist diverse, competing, and multi-dimensional arrangements within a social–penal nexus, but rather release schemes, as they are supported by identification systems, facilitate penalty in maintaining a more hidden and flexible form.

Within a social–penal nexus, identifications and knowledges generated around and through penal release assist in the location of individuals, delimit boundaries, establish norms of conduct and social participation, promote levels of efficiency, create and reify social categories such as gender, race, and class, establish types and levels of 'criminality', specify points of entry and intervention, and make certain aspects of life visible or invisible. In considering emergent and localized trends in the field of women and penal release, despite shifts, disruptions, or disparities in penal thought and practice, within a social–penal nexus ongoing links between women and the necessity of correction are made. An investigation of women as a category for penal thought and practice and the broader functioning of the social–penal nexus thus contribute to the above discussion and understanding of modern forms of penality and emergent trends.

*Women and Other Penal Categories*

It is often argued that women are given very little consideration in historical and current analyses of 'crime' and punishment (Smart, 1976; Howe, 1994; Naffine, 1997; Hudson, 2002; inter alia). This is raised as a significant concern, particularly given the sharp increase in representation of women in the prison and penal system at large (Bastick, 2005). Despite their lack of representation in the system, an analysis of women
nonetheless offers different insights into how correction is organized along hierarchal divisions and categories of knowledge of women, particularly within a domain that has made identifications and divisions a significant aspect of its operation. Other authors have shown that through an analysis of women in the study of penality, existing and prevailing discourses are often no longer supported. Bosworth (2000), in her analysis of imprisonment of women in l'Hôpital de la Salpêtrière in France from 1684–1916 argues that despite penal changes, there remains striking similarities between early modern and current forms of punishment. The study reveals that when women are considered, there is more continuity in the practices and discourses of punishment than what is commonly or has been previously acknowledged (e.g. Ignatieff, 1978). Rafter (1990) also argues that prisons for women expanded greatly during the progressive period (1890s–1920s) and at a faster rate, contrary to Rothman’s (1990) analysis of men’s prisons that shows a decline in the usages of imprisonment. Further to this, women in prison were and continue to be contemplated within bio-psychological perspectives where others have argued that such therapeutic and medical approaches are in decline or non-existent (see Dobash, Dobash & Gutteridge, 1986: 5–6; Kendall, 2000). Although gender does not exhaust the categories and divisions of thought created throughout penal practice, an analysis of women offers insight into and informs discourse of the creation of such categories and divisions and speaks to the situation of women in particular, against the more universal narratives of penality.9

Women are not, however, simply a blind spot within penal thought and practice, despite Charlotte Bunch’s commonly cited phrase “add women and stir”. Even for an invisibility of women as a category to exist, power must operate to ensure its form and an investigation of this neglect or silence reveals the hidden facets of power that nonetheless shape an ordering of women (see also Chapter III). For instance, Carlen suggests that “[women] are to be found within discursive forms and practices which [are], conventionally, considered to be quite unrelated to penology” (1983: 15). McCorkel also argues that even where penal thought and practice attempts to reproduce the disciplinary policies associated with men’s facilities, they modify such practices in response to perceived differences between men and women: “[a] crucial modification is the use of an embodied surveillance that sharply differs from Foucault’s

* This thesis is, however, embedded in a discussion of ‘Western’ and European based or influenced penal trends (see Chapter II for a discussion of these limits).
analysis of penal surveillance mechanisms” (2003: 42). Where the discursive knowledges and divisions continue to exist, despite a certain invisibility or neglect, women are nonetheless maintained in various capacities as a specific penal category.

Conversely, with a focus on women, there is often an assumption that we can get at a more truthful or accurate account of their involvement in the penal system. Such assumptions however, fail to consider the ways that penality itself is central in creating, defining, and shaping such categories of people. For example, women are seen to have different ‘custodial challenges’ such as higher rates of abuse, social disadvantage, mental illness, more incidents of self-harm and suicide, and are often confined for non-violent and often drug related ‘offences’ (e.g. O’Brien, 2001a, 2001b; Gelsthorpe & Morris, 2002). With overlapping and intersectional concerns, appeals are made for penal practices to reflect these experiences and realities of women and a need to revitalize ‘community’ resources within gender and culturally specific supports (e.g. Morris & Wilkinson, 2000: 46; Galbraith, 2004). In an attempt to offer a more ‘truthful’ account, this patterning of difference also provides for the creation of other points and categories for intervention such as with gender, race, class, and mental health. Such approaches, as outlined above, are intertwined in penal practices that not only subsume women within further penal categories, but also keep such categories, including a category of women, identified and defined within penal operations.

There is a paradox of focusing on women within the penal system where discourses to dislodge or minimize penal regimes and repressive systems are often shifted and used to serve a broader function of correction.

The academic study of prisons is enmeshed in ... contradiction: On the one hand, the appearance of ‘objectivity’ contributes to the abstraction that protects these sites from view, while on the other, intense engagement runs the danger of a compulsive intimacy with the terms provided by the prison itself. (Rhodes, 2001: 68)

More broadly speaking for example, Yudice (1989) argues that a liberal notion of equality that attempts to de-marginalize groups by promoting equal rights, equal pay, and practices of recognition, construct such groups within minority identities that set
them apart from those experiences acquired and valued by the norm. Stanko (1997) shows how within discourses of public safety, women must negotiate their own protection from men's violence as an ongoing and embedded strategy of a government of the self that personalizes and responsibilizes women. Valverde (1996) argues, these practices reflect the illiberal and despotic tendencies of a government of the self that must be mastered in order to enjoy liberal citizenship. Barbara Cruikshank (1999) further suggests that, through a technology of citizenship, those acts that do not reflect standards and procedural norms are more easily dismissed, de-politicized, or shifted to other regulative sites, with individuals considered as failing to act on their own behalf: "participatory democratic discourse is preoccupied with the subjects who do not rebel against their own exploitation and inequality, who fail to act in their own interests; and who do not participate politically even though free to do so" (ibid: 3). Those who fail or are unable to act according to the norms expressed around their own subjugation are promoted in other discourses of social obligation or non-compliance. The paradox of defining and delimiting understandings to specific categories or systems of repression is that it creates other divisions and vestiges of regulation. Women in the penal system, for instance, are categorized and measured against prescribed expectations and norms through which their participation and freedom are determined. By fusing a notion of freedom within broader schemes of correction, a consideration of women in the penal system outside of social, gendered, and corrective constructs is made difficult to challenge.

Within a social-penal landscape, sophisticated networks of knowledge are developed in a more or less unifying way to develop and promote a particular ordering and participation of women. Operating within diverse social fields, penalty makes use of gender and other attendant categories as the objects and instruments of its exercise.

Gender stands for the pervasive ordering of human activities, practices, and social structures in terms of differentiation ... In this approach, gender is a process, not a characteristic of persons, although, of course, the assignment of persons to gender categories is a central aspect of this process. (Acker, 1992: 567)
As a process, a category of women continues to inform penal practice and who, as
subjects, are also made active in their own social participation and corrective ordering.
The identification of women as a category for correctional thought and practice
addresses them as subjects to particular social experiences that frame and determine
their management and correction: “[the department] contextualize[s] women’s needs
within the realities of their social, economic and vocational circumstances and women’s
specific patterns of learning and interaction with peers and authorities” (NSW
Department of Corrective Services, 2000: 1). With a notion of transition supporting
penal release schemes, social agents and networks involved in the release of women
promote both coercive and productive functions of corrective discourses. Despite the
(re)integrative and inclusionary language of release, a participation of women in the
social is tied to gender and other corrective categories that become points of
intervention and what they must negotiate to secure a freedom within its discourses and
forms.

For this thesis, I consider the broad, multiple, and overlapping streams of thought and
practice that create women as a category for a variety of social and penal interventions,
discursive or otherwise. Although I further discuss the above paradoxical concerns of an
investigation of women in Chapter II, I do not necessarily resolve this tension or
paradox throughout this thesis, but rather, by considering how women in NSW emerge
as a problem for penal release and modern forms of penality, I seek to disrupt analysis
and offer other routes for contemplating women, without necessarily imposing a subject
position.

Carceral Archipelago
With penal schemes generating from and shaping social sites, a more or less consistent
and unifying corrective knowledge pervades the carceral archipelago: “the way in which
a form of system, such as the penal apparatus, is physically dispersed yet at the same time
covers the entirety of a society” (Foucault, 1980: 68). This character of penal practice 1)
establishes corrective applications throughout the social that are supported by diverse
programs of power and 2) promotes and legitimates a framework of thought and practice
that is consistent with penality and supported by state and security apparatuses,
institutions, agencies, individuals, and the women themselves. The heterogenous,
distinct, and overlapping spaces of the archipelago are shaped by penal knowledge and
practice that shift in and out of social arrangements and ordering. Corrective operations circulate and intersect through the archipelago in different ways, different points, and at different times.

Release schemes, as both coercive and facilitative, are designed to promote social participation and productive aspects of life, while maintaining women within more or less restrictive frameworks. This dual arrangement of coercion and support, while irreducible to the other, interact with and underpin the other’s exercise to ensure women participate within specific and expansive corrective followings. Despite its competing appearance, the arrangements and knowledges that accompany release programs have helped ensure a more definitive link between penal and social operations. This mutually conditioning arrangement, or what Stan Cohen (1985) refers to as a care and control model, but what also reflects volatile and contradictory (O’Malley: 1999) arrangements, is shaped by modes of government that reflect disciplinary, bio-political, and sovereign powers. Disciplinary power is linked to the disciplines and to strategies of observation, classification and normalization; bio—political power, vested in the government of populations, is concerned with matters of security, life, death, and the (re)production and circulation of humans at the level of species; and sovereign or despotic rule, tied to juridical powers, is linked to the right of punishment, confinement, and death. I consider below, and elaborate in following chapters, the conceptual terrain of these programs of power, beginning with a notion of the social and how it is shaped through these modes of government and how it operates with the penal apparatus.

The Social

Rose, quoting Deleuze in his foreword to Donzelot’s (1979) Policing the Crisis, offers the definition of the social as “a particular sector in which quite diverse problems and special cases can be grouped together, a sector comprising specific institutions and an entire body of qualified personnel” (1996b: 239). Following from this, Rose argues that the social is not a natural formation nor did it emerge as a normative condition of living, but rather “sets the terms for the way in which human intellectual, political, and moral authorities, in certain places and contexts, thought about and acted upon their collective experience” (1996b: 239). In effect, the social is the contingent product of ongoing agreements and tensions between institutions, material arrangements, and discourses that create and shape spaces for ordering and organizing people and
populations. Rose goes on to argue that the social has given way to more fragmented, localized, and individualized ‘community’ networks of government programs and de-socialized economic policies, resulting in a certain ‘death of the social’. These trends, however, need not necessarily reflect a social death, but are rather what Dean (1995) and O’Malley (1996) respectively argue to be a reordering or refiguring of the discourses and logics of government (see also Stenson & Watt, 1999). Barbara Cruikshank (1994, 1999), for example, argues that within liberal tenants of freedom, rights, and democracy, the social is used to delimit what is necessary for civil participation. Citizenship is thus used as a government strategy to shape and strain social and individual participation. The social, as it is referred to in this thesis, reflects a coalesced, networked, dispersed, and fragmented arena of institutions, groups, and individuals consisting of wide-ranging and discrete spaces of government.

As an operant of the social, the penal apparatus is a machinery of security, punishment, modification, and subjectification. For such an apparatus, there must be a circulation of knowledge and elaborate arrangements that support and reproduce its design and so it is also within the social that the various mechanisms of its operation are dispersed. The penal apparatus also shapes and fashions a carceral archipelago as it reels in professionals, enclosures, and agencies into dense interlocking networks of government (Garland, 1997: 178). “[It] inserts itself between them, securing their join, but ... comes from elsewhere with different terms, different norms, and different rules of formation” (Foucault, 2003: 41). The joining and intersecting of the penal apparatus with other existing domains of life, labour, security, education, welfare services, and the like, not only promotes normalizing or regulative features for the women, but also makes those everyday features a part of their transition and corrective management. With the emergence of penal thought and practice into and informed by various public and private domains, the social is shaped as a corrective landscape for categories of people identified therein. It is the corrective features administered throughout the social that make up the carceral archipelago. Although the social represents a certain ‘freedom from’ penal or prison confines, it also circulates the discourses and forms of knowledge attached to penalisation. The social does not, however, merely replicate or reflect a prison order, but is connected with the forms of power that the prison represents (Alford, 2000: 128). In addition to the formal administrative controls and conditions of penal release schemes such as parole, there also exists informal security technologies of families,
employers, self-help groups, and so on, that have a line of knowledge to the penal apparatus. This approach lends itself to the continued employment of corrective measures and establishes the normative grounds and limits for women's participation in the social order.

Embedded within other social and institutional knowledges that have their own effects, codes, and procedures, a corrective function of the penal apparatus is supported and reproduced by retaining legitimacy in its operations through its circulated and networked effects. Within this network, identification systems operate at various levels of the social strata, collecting and circulating women through broad, detailed, and specialized forms of knowledge. The various professions and disciplines involved in such systems contribute to and expand upon such identifying features through their own schemes, programs, and projects. Kelly Hannah-Moffat (2000, 2001) shows how social organizations and advocacy groups for women inadvertently contribute to the disciplinary knowledge of the prison through a notion of 'empowerment' that fosters individualizing and responsibilizing penal strategies (see also Chapter VI). The lives of the women are made known and exposed to those various officials, agents, and groups whose task it is to inform and consult the women on (re)integration strategies and promote social health, security, and wellbeing. For such a knowing to occur, a penal apparatus, through its specific historical emergence, establishes efficient and discursive information exchanges within a creative network of formal and informal social actors. For women on release, the social emerges both as problem and vehicle for government with knowledge invested in the health, wealth, strength, and protection of individuals and populations. It is through disciplinary and bio-political mechanisms of power that such an ordering of the social and corrective management of women can occur.

Politics of Discipline and Bio-Power

The social is both a site and instrument in the production, circulation, and application of knowledge. Through normalizing discourses, classifications, hierarchical divisions, and the setting of limits, the social body operates within both productive and regulative capacities. Disciplinary power, as taken up in various social institutions such as the prisons, schools, services, employment, and families, functions through small-scale and regionally dispersed powers: it is a political anatomy of detail that can increase the force of the body and turn it into an aptitude such as in economic terms of utility, and it can
diminish or reverse these same forces such as in political terms of obedience (Foucault, 1977 [1995]: 138-139). Bio–power, which seeks to enhance life and order populations, establishes conventions for health, wealth, and security, and assists in the management of humans at the level of species such as with marriage, births, deaths, and sex. Through bio–political and disciplinary mechanisms, power emerges in a combination of both individualizing techniques and totalizing procedures (Foucault, 1982: 782).

Disciplinary power, as an operant of a norm and a system of control in the production of discourse (Foucault, 1972 [2002]: 224), is not only punitive and restrictive, but facilitative and productive as it habituates and disciplines the body and conditions the self: According to Ewald, the “norm is the principle that allows discipline to develop from a simple set of constraints into a mechanism; it serves as the matrix that transforms the negative restraints of the juridical into the more positive controls of normalization” (1990: 141). The disciplines such as psychiatry, psychology, sociology, and criminology are deeply implicated in developing and reproducing regulative and normative social features, while a range of institutions, organizations, universities, professionals, experts, media, and cultural and economic productions participate in varying ways to promote and reproduce discipline and the norm (Couze, 2007: 122).

Within penal literature, there is a tendency to consider disciplinary power in terms of the more coercive or restrictive aspects of modern penal thought and practice (Garland, 1990; Lacombe, 1996). As Foucault suggests, however,

What makes power hold good, what makes it accepted, is simply the fact that it doesn’t only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, [and] produces discourse. (1978 [1980]: 143)

In its productive form, disciplinary power assists bio–political functions in the promotion of life and the circulation of populations. The disciplines seek to both normalize and regulate the social body and to bring ‘the many’ into line with the various forces of production and social elements to render populations manageable. Lacombe (1996) suggests that punishment then, as administered through disciplinary powers, is best understood as a mechanism for life that brings decisive aspects of being into awareness.
A disciplinary power does not necessarily create individuals who are more obedient, subservient, or controlled, but produces efficiencies for the management and circulation of populations. The penal apparatus is not only a mechanism of control or repression, but a means to identify, differentiate, and circulate individuals and categories of people.

In his first volume of the History of Sexuality, Foucault outlined a shift beginning in the eighteenth century where, along with the emergence of the disciplines and correctional figure, power also began to organize around the flow of populations. It is here that the human body became both an individual site of power and a political site invested with concerns of security, territory, and life: “situated and exercised at the level of life, the species, the race, and the large-scale phenomenon of population … [bio–power] brought life and its mechanisms into the realm of explicit calculations” (1978 [1980]: 143). Linked to the disciplines, the government and regulation of populations and enhancement of life increasingly displaced (but did not replace) a sovereign rule and juridical models of governance. Through the disciplines, various institutions and agents study individuals, populations, and economic life in an attempt to create security, health, and prosperity. Once individuals and populations are known, they are organized through a multiplicity of government formations and are subject to the ways in which they should conduct themselves. Norms are thus transferred to kinds or categories of people that keep them catalogued together and set them apart within multiplicities.

Following Foucault, there has been considerable discussion of bio–power taking shape in the form of risk and actuarial knowledges. In relation to the norm, Ewald also defines risk as relating “neither to a specific occurrence nor to a kind of event that might take place, but instead to a way of treating certain events that might happen to a particular group of individuals” (1990: 142). Accordingly, Feeley & Simon (1992; 1994) argue that penal systems, operating through liberal modes of government, tend to normalize ‘crime’ through bureaucratic administration, actuarial assessments of statistical occurrences, and numerical distributions that generate and expand upon forms of criminalization, punishment, regulation, and control. The authors suggest that risk knowledges normalize the occurrences of ‘crime’ to control or minimize its effects rather than detect

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10 This is not to suggest that the development of bio–power saw a decline of law, but rather shaped the law more in accordance to its schemes and took precedence over a juridical functioning of sovereign power and the right to death.
or eradicate its sources. This is also similar to Garland’s (1996) notion of a criminology of the self where ‘crime’ is considered more or less normal in the sense that anyone could be a ‘criminal’ under the right conditions. With a focus on the security, protection, and safety of the population, concern is not so much on the specific act or individual, but with potentialities and probabilities. In this sense, risk and actuarial practice, as a strategy of bio–power, rely on the identification of deficiencies, irregularities, and deviations of groups and populations.

Penal practices are not, however, reducible to overarching schemes of risk strategies. O’Malley argues that “penal policy is not necessarily a rational and consistent whole, and is responsive to dilemmas, failures of political will, and conflicts of political interests” (1999: 181). Penalty, in its flexible form, responds to diverse situations in a multiplicity of ways and is not reducible to one model of governance, although one may be more prevalent at certain times and certain spheres. Even practices developed around risk management and ‘crime’ control carry certain normative prescriptions and understandings of ‘crime’ and individuals that are embedded in disciplinary and sovereign powers are also invested in subject constitutions. Bio–political along with disciplinary mechanisms give rise to a field of knowledge and types of normativity linked to a complex interplay of productivity and restriction and are implicated in those subjectifying and individualizing mechanisms that emerged with modern forms of power. While I elaborate on this in the following chapter, I emphasize here that discipline and bio–power operate at the level of individuals and populations, through multiple, competing, and intersecting strategies, devices, and systems of thought.

Practices of Removal and Spaces of Elimination

Within the social, power encourages and enforces a certain participation and shapes those spaces where women are considered free to exercise themselves. Despite its productive aspects, a sovereign rule and despotic powers are never far removed as women are only free to exercise themselves in certain ways. Measures of identification in this field not only assist in corrective features of penality to reintroduce women back into the social, but also facilitate a potential to circulate women either into containment or out of a social functioning where elimination through abandonment or death can occur. Within this realm, despotic aspects of power are intertwined with a notion of
freedom to legitimate possibilities for removal and elimination through forcible seizure, abduction, repression, and, at times, culminating in death (Ewald, 1990: 138).

With reference to a sovereign rule, I adopt what Mariana Valverde discusses as a despotism of liberal governance, where individuals are seen as requiring some combination of therapeutic, disciplinary, and coercive techniques to bring them up to the standard of free liberal citizens (1996: 361). The same conditions that foster an applicability and operation of correction within the social are also arranged to support more coercive and despotic strategies. According to Valverde, linked to elements of despotism, liberal forms of governance are not so much interested in a 'freedom of choice' but rather a freedom to make the 'correct choice'. Working alongside inclusionary projects of liberal governance, it is those women who exhibit deficiencies, instabilities, vulnerabilities, 'criminal' records, and suspicious cultures — exactly those women who have been categorized in analogy to white European men — who are subject to this often hidden despotic rule and illiberal projects (ibid: 360). As noted above, McCorkel (2003) refers to this as embodied surveillance where gender (and racialized) differences are produced through hierarchical and organizational conceptions of life, work, and systems of thought based on (white) male and penal norms.

Pat Carlen (2001) and Phil Scraton & Linda Moore (2005a) reveal some of the more prevalent or less hidden despotic aspects of penal practice in their work on self-harm, suicide, and deaths in custody in prisons for women in the UK. The authors reveal how occurrences of violence and death are undermined, minimized, and ignored by penal administration and staff, as well as by the public and the media (see also Rodriguez, 2006). This is what Allen Feldman refers to as cultural anesthesia:

the banishment of disconcerting, discordant, and anarchic sensory presences and agents that undermine the normalizing and often silent premises of everyday life ... violence [is] withdrawn from the everyday and its disturbing perceptual dispositions confined and silenced by invoking the informational norms of a universalizing rationality. (1994: 405)
The more violent aspects of the penal apparatus, such as removal, containment, punishment, and death are hidden or are made less visible, not only through a prison system, but through the procedures of social routines and norms of reasoning that minimize or obscure occurrences of violence.

Critical race theorists similarly highlight the more despotic aspects of the penal apparatus as colonial style powers shift its practices of abduction and slavery into new modern colonial technologies of the prison and land dispossession (e.g. Razack, 2002; Moreton-Robinson, 2004; Sudbury, 2005). As such, racialized groups exist more so with a potential of being localized to spaces where they are circulated out of political and economic functioning and denied social entitlements. Sherene Razack (2002) accounts the death of Pamela George – an Ojibway woman of Saskatchewan, Canada and occasional prostitute on the Stroll who was raped, beaten, and murdered by two white men. Although initially charged with murder, the men were eventually found guilty of manslaughter. Razack argues that it was Pamela George's race that determined the ruling as a result of Canada's colonial history of a complicit acceptance of geographic dispossession and violence.

 Forced to migrate in search of work and housing, urban Aboriginal peoples in cities like Regina quickly find themselves limited to the Stroll. Over-policed and incarcerated at one of the highest rates in the world, their encounters with white settlers have principally remained encounters of prostitution, policing, and the criminal justice system. (127)

Throughout the court case, marked distinctions were made between the living spaces of the young men of respectable society, existing as upstanding community members, and those of Pamela George, such as life on the Stroll where occurrences of violence and death are more common and expected. For example, the remote rural area where Pamela George was murdered was discussed in terms of a place where 'those things happen' – a 'no man's land' that facilitates meetings of what is framed as 'white respectability' with Aboriginal 'immorality' or 'criminality'. Such an analysis reveals the difference in material benefits, moral/legal/social entitlements, and spatial and economic positioning between racialized groups and colonial settler society. Critical race theory more broadly thus contributes to an understanding of how social processes in themselves
systemically and physically disadvantage racialized groups and how social structures and processes recreate and maintain such dispossession and disadvantage. Within the penal apparatus, populations, groups, and individuals are also regulated through dispossession and in negative terms that neutralize and segregate certain groups or categories of people to new forms of regulation and incapacitation. Conversely, where government fails or refuses to intervene, dispossession or death occurs through other means such as homelessness, self-harm, drug use, suicide, or violence can and often does occur. Current penal trends are organized along acceptable grids of knowledge and conduct considered necessary for the strength and security of social, political, and economic systems. These arrangements inevitably create groups, such as those who are racialized, that fall outside desired and supported norms and facets of life and, marked by a sovereign will, are more easily brought to containment or denied social, legal, political, or economic supports.

Tied to a penal apparatus, women are enlisted to other localities that govern through coercion, force, and threat of removal such as through the criminal justice system, or by the removal of practices such as by denying support and resources. Facilitated through identification measures, transitional practices can metastasize into something more threatening, particularly for those women who are more likely to be either (re)imprisoned or abandoned for the “complexity of the anti-social, gendered and exclusionary nature of their living conditions” (Carlen & Tombs, 2006: 339). Penal thought and practice is enmeshed within some of the more hidden and violent aspects of the regulation and normalization of populations linked to sovereign powers as well as those disciplinary and bio-political forms. The social thus serves as the arena with the necessary limits, denial of resources, and potential sources for correction, removal, and elimination.

Women and Penal (In)Visibilities

Although penal release suggests a move towards a certain freedom, ‘criminal’ titles and release schemes continue to reinforce divisions and a penal necessity. With penalty reasoned as a necessary element to improve safety and enhance the women’s lives, a dual strategy of coercion and assistance establishes a more consistent circulation of penal knowledge throughout the social: “support services, work release, and halfway houses give a chance for acclimatization in the free world and for the structuring of
women's lives” (Petersilia, 2003: 98). As part of a (re)integration strategy to ensure a particular circulation of populations and social participation, women are invested in social knowledges that accentuate, accommodate, and or remain consistent with penal logics. A social-penal character makes use of categories and divisions to enforce more decisive and ongoing corrective applications. Emerging as correctional figures, women are set apart from other social categories, yet remain within social arrangements. Penal strategies such as work release, halfway houses, mandatory programming, and case management are melded into social arrangements such as welfare, life skills, and employment to make aspects of penality less distinct and visible. This has the effect of making it difficult to separate the social aspects of the women's lives from an exercise of correction.

Penal Limits and Necessity

The prison, as a system of containment and discipline, is limited in its capacity to create normalizing conditions for (re)integration. It also, however, assists in part of a knowledge production that ensures women are integrated and circulated into broader social corrective discourses and operations. Those aspects of the women's lives that are shaped and invested in penal knowledge are also made known and visible to other institutions and agencies of health, housing and employment for example. By linking penal knowledge to social institutions, release schemes ensure women remain informed and shaped by corrective discourses that create the conditions of possibility for how women actively negotiate life outside the prison.

Within the literature, transitional strategies are often considered a necessity for those emerging from prison to be able to adapt to and cope with life outside: “[r]elease from prison presents a risky and dangerous situation for many. During this critical period, newly released inmates are forced to make many decisions that may affect their future, yet they are ill equipped and inadequately prepared to do so” (Severance, 2004: 94). Housing, for instance, rather than emerging within discourses of basic right, is considered a place of transition, employment is considered a stabilizing activity that minimizes criminal risks, and social skills programs are offered as a means to encourage 'pro-social' decisions. With penal interventions considered a productive aspect in the lives of women, a whole consortium of ideas, practices, and professionals emerge within
a domain of 'community' and safety, with the penal apparatus as the privileged source and distributor of (re)integrative knowledge and strategies.

Without the prison as the centralizing feature in the lives of women, the power with which it is associated is transformed and coupled with other social and security apparatuses. I adopt Alford's (2000) analytic of the penal apparatus as constitutive of a capillary power that not only flows from the center to the margins or from margins to center, but is in constant communication and transit to and from extremities and interiors. The penal apparatus supports and (re)produces forms of power and knowledge that emerge from and are dispersed throughout the social body; although it does not ensure a continuous or permanent gaze, power sets parameters, links specific bodies, and enlists souls.

It is within the social then that a certain performance of penal power takes hold. This is not necessarily done through physical restraint such as with the prison; nor by a permanent subjectification such as through individualizing strategies, but also by establishing limits for how one can negotiate their life. "When you control the entrances and exits, you do not have to look. It is that terribly simple, the principle, and goal, of all power" (Alford, 2000: 131). By establishing a certain knowledge and visibility of women, it is not necessary to maintain a permanent control or subjectifying gaze, but rather shape and direct the terrain and limits of being. One such way that the penal apparatus shapes the carceral archipelago and sets limits, for instance, is through what are referred to as the collateral costs of imprisonment and the hidden punishments that exist upon leaving the prison. Among many other things, these might include prohibitive zoning regulations, publicly available 'criminal' records and registrations, restrictions for employment and housing, and/or a loss of voting privileges (Mauer & Chesney-Lind, 2002; Maidment, 2002, 2006). These practices occur in addition to the range of penal knowledges, regulations, supervisions, and programs that might accompany release and further shape and set limits on social participation.

For the most part, and with the exception of those who are removed from or circulated out of a social functioning (e.g. through abandonment such as homelessness or eventual death), the social is a productive force of penalty as it offers the normalizing grounds that support a broader function of correction. The social remains conducive to overall
(re)integration strategies since it is through the productive and restrictive elements of penality that the adaptive adjustments or changes are most likely to occur.

**Combining Social and Penal Worlds**

Unlike the prison, the social is less equipped to deliver a more concentrated gaze, although its penal capillaries are numbered and diverse. A decisive knowing and visibility of the women helps the apparatus in establishing limits and creating a carceral archipelago to reinforce certain penal knowledges, corrective arrangements, and subject constitutions. It is nevertheless within the social that the limits of the prison are also minimized by ensuring and reinforcing specific discourses and divisions. Through a proliferation of ‘community’ devices, the social appears as a distinctive domain, while interacting with and remaining more or less consistent with both a visible and hidden penal exercise.

A penal and (re)integrative necessity makes it difficult to distinguish between and separate elements of penal practice from other aspects of social and everyday life. With release, there is a combining and confusing of penal thought and practice into private realms and public institutions and agencies of labour, health, and education. This shift towards the uses of the social has been referred to as a net-widening, expansion, intensification, and dispersal of systems of control and penal regulation (Cohen, 1985; Chan & Rigakos, 2002). Cohen further argues that such a shift has blurred the boundaries between penal and social domains such as through the privatization of deviancy control or the proliferation of penal practices into social institutions of family, employment, schools, and neighbourhoods. Through a capillary power, the boundaries of the penal apparatus are blended and confused with other social arenas, with penal logics informed by and emerging as a productive part of social arrangements. By obscuring penal and social worlds, the apparatus is arranged to modify conduct, establish limits, reaffirm knowledge, and thwart or discourage other modes of thinking and being. Women on release, although expected to contribute to and participate within processes of work and life, are also excluded by those discourses and practices that keep them attached to being ‘other’. This melding and confusing of boundaries formalizes practices to bring particular populations in line with the very penal and social arrangements that create and maintain divisions and categories of ‘otherness’. The penal apparatus is adapted to work within a variety of social capacities to ensure certain social obligations.
This circulation and information exchange limits other possibilities and ways of thinking outside of such broad corrective contexts and of those groups identified and set apart within a social–penal functioning.

Both punitive and productive aspects of penality are rendered more invisible as categories and divisions are melded into 'normal' institutions and everyday practices. At the same time, with a penal necessity, a sovereign or despotic rule can surface to apply those removal or elimination strategies facilitated by networks of identification. Whether it is to deter, contain, modify, exact punishment, rehabilitate, reform, remove, or eliminate, the penal apparatus makes use of the social elements to enhance and inform its operations. With a penal necessity, those who are circulated within the apparatus remain, however tenuously, versed and organized within penal logics.

Conclusion
Through the use of disciplinary, bio–political, and sovereign powers, correctional figures emerge not only as a category to be contained or controlled, but also actively fashioned and circulated to accommodate broader rationalities for the government of people and populations. By establishing limits and defining boundaries, individuals and groups are invested in various social sites to maximize a broad penal functioning that shapes limits for what is considered necessary, desirable, and normal. As part of a penal effectiveness, a more decisive understanding and awareness of the women is circulated throughout an archipelago that ensures varied and specific aspects of their lives are contemplated within correctional modes of thought to promote particular lifestyles, modes of health, and forms of safety. Despite the appearance of the penal and social operating as very distinctive arenas, such boundaries are combined and confused as they operate on complex levels of interdependency, facilitated by measures and points of identification. The social–penal nexus is a mutually reinforcing form that keeps women tied to correction whether this is through a supportive function or those more restrictive and indeed violent aspects of penality.

Prison release, as an adaptation process, operates to ensure women are enlisted in discourses around their ability to manage, cope, and succeed without the heavily enforced regulations and controls found within the prison. Penal categories, along with 'criminal' titles, are germane to this understanding of women, and it is through such
divisions that penalty establishes its necessity. Knowledge grids are developed and produced through the accumulation of information and the creation of categories with women clarified, negotiated, defined, and reproduced within the micro-relations of the carceral archipelago tied to other social, political, and economic sites and institutions. By focusing on the social particularities of women, penal categories are not articulated apart from or outside of local knowledge and practice, but are also shaped by the terrain. With elaborate identification systems facilitating in the creation of categories and knowledge, women are both set apart from and enlisted in social obligations and norms.

An investigation of the emergence of the category of women and penal release schemes in NSW shows how despite reforms or shifts in penal trends and practices, through its links with the social, a penal apparatus maintains a fluid, flexible, and hidden form. While I elaborate on the conceptual and analytical terrain for this thesis in the next chapter, the above discussion highlights the more general features and operations of the penal apparatus in relation to the social and diverse mechanisms of power. For this thesis, by considering some of the formations and discursive practices in the field of women and prison release, I contribute to both a local and broad knowledge of women and penalty and reveal some of the more subtle and hidden spaces that penalty occupies. This thesis also highlights the complexity and interdependency between the social and penal nexus that shapes and sets limits for what is made thinkable and possible.
Chapter II

Analytics, Feminism, and Critique: Methodological Considerations and Tensions

The Master’s tools will never dismantle the Master’s house.
Audre Lourde

It’s not a question of emancipating truth from every system of power — which would be a chimera, because truth is already itself power.
Foucault, 1980: 133

Penal release is characterized by its own unities and forms, as much as it emerges from a social terrain and discourses. By considering how women are taken up within these mutually informing and interdependent fields, other levels of thought and practice are revealed. This is not to suggest that by looking specifically at women we can get at a more truthful account of a social–penal domain, but that other formations are considered given that women, as a category for thought and practice, are also objects and instruments for penal knowledge and intervention. Although focus here is on women, I am more interested in the variety of thought and practice linked to penal release and that attach women to certain ‘knowings’. How is penal release for women made intelligible and by what means and with what effects? What localities were created to administer and govern women where no space previously existed, or existed in a different way? What discourses, discursive practices, and material conditions shape this domain? What are some of the agreements, tensions, conflicts, and compromises that arise in the field? And, what truths or falsehoods are established? To address such questions, I adopt Foucault’s analytical tools and genealogical approach — an investigation of a singular event with multiple determining elements — to consider how women, along with other categories such as race, emerge as a problem for penal release and how this domain is made possible.

Foucault, among other things, is known for his reworking of power in terms of a power–knowledge dynamic and for his genealogical investigation. This reframing of power and
historical inquiry offer a means to question the self-evidence of current practices and to deprive discourse of taken-for-granted assumptions and narratives of progress. Analysis here is “rediscovering the connections, encounters, supports, blockages, plays of forces, strategies, and so on, that at any given moment establish what subsequently counts as being self-evident, universal, and necessary” (Foucault, 2000: 226–227). It is an approach that considers the emergence of certain domains and objects of knowledge, not in terms of an a priori subject or historical continuity, but within their competing and collaborative arrangements, continuous and disrupted threads of knowledge, and collapses and supports in modes of reasoning.

What has been appealing with Foucault's refusal to establish universal or essentialist claims in which to ground experience has also attracted criticism for failing to provide normative commitments for politics. It is argued by thinkers such as Habermas (1987) and Fraser (1989) that Foucault's analytics leave no foundation for action or to determine what formations are desirable over others. Even where Foucault was committed to a certain self-determination, he was not prescriptive in this regard. Where some have found his approach useful for redirecting analysis against commonly accepted knowledge, others have found it to be immobilizing, counter-productive, or anti-political. In this chapter, while I address some of the above concerns, I do not necessarily hope to resolve them here, but rather present some of its criteria to highlight how political action is organized in such a way that critique itself must subscribe to enlightenment or rationalist demands. I argue that critique must not necessarily make a normative commitment, but is indispensable for making other practices visible and opening possibilities for something else. As Kathi Weeks suggests, “[the] power of a theoretical framework should be measured in terms of its ability to provoke or inspire the reader to re-create the world, not in terms of its ability to paralyze the creative intellect” (1998: 26).

For this chapter, I elaborate on Foucault's notion of power as it is tied to a will to truth and invested in disciplinary and bio-political formations that vitalize particular modes of

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11 For example, Foucault's involvement in the prisoner liberation movement with the Prison Information Group in 1968 reveals some of his own commitments against authoritarian regimes. Foucault has also argued for struggling against those individualizing tendencies of modern forms of government (1982: 785; see below for a discussion).
reasoning and forms of government. I also locate this work in some of the feminist discussions and tensions around Foucault’s approach and consider how an analytics of power remains useful exactly because it need not necessarily resign itself to prescriptive ends. In conjunction with Foucault’s analytics of power, I elaborate on a genealogical approach that serves as the method of analysis for this thesis. I finish the chapter with a discussion of the more methodological or technical aspects of this work, particularly in relation to the archive, and I look at some aspects of my research that shape and limit what this thesis offers. If it seems that I rely extensively on Foucault here, it is in an attempt to engage with and make use of his ideas, or as Jan Goldstein suggests, “to understand it in its own terms and to specify what [it] offers” (1984: 170).

Analytical Terrain of Power

With the emergence of modern rational thought beginning in the seventeenth and eighteenth centuries, knowledge began to circulate through the disciplines and knowledge based on modes of reason and dualisms. Truth was established as something that existed outside of discourse in an elemental form that could lay claim to natural universal laws, narratives of progress, and the inevitably of who we are. With knowledge equipped with the capacity for truth and the emergence of the individual as both the object to be known and subject of knowledge, certain aspects of an exercise of knowledge were made invisible. Foucault has argued that the fashioning of humans as both objects and subjects of knowledge has made it difficult to question modern rational thought by making its force relations or relationship to power invisible. Revealing how discourse obeys certain anonymous rules, Foucault argues that the truth of who we are is not inherent, inevitable, or universal, but an effect of discursive practices and the rules and reason giving mechanisms of thought and practice.12

Modern modes of reasoning are the result of very specific, diverse, and multiple discursive formations and practices that do not exist outside of or apart from the conditions and formations of knowledge from which they emerge and which they shape. Truth, in this sense, is embedded in strategic and complex relations of knowledge and

12 'Thought' and 'practice' act in reference to one another as they condition, but do not determine, the other's exercise. "Practice is a set of relays from one theoretical point to another, and theory is a relay from one practice to another" (Deleuze quoted in Foucault 1989 [1996]: 74; see also Glossary). Thought is only realized through material and concrete forms, but it is also what makes these material conditions and forms possible.
power that promote certain political economies, moral regulations, cultural norms, social
divisions, and what is considered acceptable, reasonable, rational, or necessary.
Considering truth in this way through an investigation of the mechanisms, strategies,
and discourses that constitute and inform its exercise disrupts the naturalness of rational
enquiry that largely shapes current or modern modes of reasoning. In the section below,
I elaborate on a notion of truth and its relation to discursive practices and outline the
emergence of modern forms of reasoning and government formations.

Truth and the Discursive

Truth — as a system of ordered procedures and discursive practices organized through
modes of reasoning — is established in certain domains and dispositifs and where a
number of techniques, languages, discourses, and material conditions shape and
constrain thought and practice. According to Foucault in his essay “Two Lectures”
(1980: 194–195) a dispositif or apparatus is a heterogeneous ensemble of discourses,
institutions, architectural forms, regulatory decisions, laws, administrative measures,
scientific statements, philosophical, moral, and philanthropic propositions. It is a system
of relations, discursive or non-discursive, established between the shifting interplay of
the various above mentioned elements. Modern knowledge is established within a
material, conceptual, and linguistic terrain, or dispositifs, and by a truth — or will to
truth — formed and produced by rules and procedures: “[truth is] characterized by a
delimitation of a field of objects, the definition of a legitimate perspective for the agent
of knowledge, and [a] fixing of norms for the elaboration of concepts and theories”
(Foucault, 1977: 199). Operating through discursive practices, these ordered procedures
are never entirely fixed or certain in themselves. Neither truth nor the discursive
correspond to some universal or objective reality, but rather constitute and determine
such reality through mechanisms of power and fields of knowledge.

Power, understood as a force relation, is circulated within a particular field that
conditions what can be said, what is excluded, and what is considered true. Where
power advances, enforces, and/or corroborates knowledge, it has no effect unless it is
linked to a knowledge that constitutes its emergence:

nothing can exist as an element of knowledge if, on one hand, it is does
not conform to a set of rules and constraints characteristic, for example,
of a given type of scientific discourse in a given period. Conversely, nothing can function as a mechanism of power if it is not deployed according to procedures, instruments, means, and objectives which can be validated in more or less coherent systems of knowledge. (Foucault, 1997b: 52)

Power is never external to knowledge in the production of truth, nor does truth exist outside the power–knowledge dynamic. As power is not localized to institutions or groups, it is dispersed and exercised by means of material arrangements, through discourse, and between relations with others and the self. Within a relational field, power operates in a multiplicity of capacities, given the conditions under which it is employed and the forms of knowledge to which it is attached.

What constitutes current forms of thought and practice are the modes of reasoning that make certain domains possible and intelligible. Rather than rationalize or theorize practice, Foucault has suggested that we need to develop an analytics of power that asks and offers an account of how power has conditioned, invested, and fabricated specific human experiences such as madness, sickness, punishment, and sexuality; it is to ask how truth games shape how humans are understood and understand themselves. Asking in this way questions the formations of knowledge, modes of reasoning, and regimes of truth that have made their exercise and relationship to power invisible and difficult to challenge. An analytics of power with its relation to knowledge is useful for dislodging and disrupting the seemingly inevitability and naturalness of who we are.

Government and Modes of Reasoning

Beginning around the seventeenth century, and primarily focusing on 'Western' and European cultures, there was what Foucault considered to be an explosion of government, including concerns of not being governed or not being governed in a certain way (1997b: 29). Concern with state power was displaced with a concern over

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13 The first of modern government rationalities was the 'raison d'état', which emerged in 17th century Europe and concerned itself with the citizenry in order to promote state strength and wealth. The second rationality, embodied in the political thinking of the raison d'état, was the police–state that, as a technology of government, policed the happiness, health, and growth of its population. Early liberalism came out against a police rationality which was thought to be too much government and state interference, along with a reasoning that the state could not be aware of all aspects of life and populations. Liberalism, emerging in the 18th century, was a style of thinking concerned with making
territory, security, populations, prosperity, economic life, and health. As discussed in Foucault’s *Discipline and Punish* (1977) and often noted in other penal literature, a decline in sovereign rule also saw a shift in penal practices such as with the replacement of public displays of torture with a penal technology of discipline and the emergence of social institutions such as psychiatry to address problem populations and social threats.

To understand how the role that government and modes of reasoning play in practice, Foucault maintains that we need to analyze it along two axes: “on the one hand, that of codification/prescription (how it forms an ensemble of rules, procedures, means to an end, etc.), and on the other, that of true or false formations (how it determines a domain of objects about which it is possible to articulate true or false propositions)” (1991b: 79). Government in this sense conforms to particular sets of rules, forms of knowledge, and modes of reasoning (or rationalities) that shape what can be considered true and false and that direct thought and conduct towards certain ends.¹⁴

The problem for current or modern forms of government is how to have individuals more or less align themselves with particular government objectives and modes of reasoning. Given the limited abilities of the state to control all aspects of life and populations, modern forms of reasoning increasingly rely on a notion of freely choosing individuals aligned with other government projects such as with market and global economies. Established within a notion of freedom, a government of others and of the self seeks to direct conduct towards certain social, political, economic, moral, and cultural objectives, where various apparatuses and strategies come into play for those who fall outside of acceptable or reasoned norms of conduct.

¹⁴ Foucault outlined four types of government technologies in a discourse of reason: “(1) technologies of production, which permit us to produce, transform, or manipulate things; (2) technologies of sign systems, which permit us to use signs, meanings, symbols, or signification; (3) technologies of power, which determine the conduct of individuals and submit them to certain ends or domination, and objectifying of the subject; (4) technologies of the self, which permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality” (Foucault, 1988: 16–17).
One of the most formative aspects of framing government in this way is to investigate the various domains of life without reducing practices of government to a subject autonomy or state rule. Problems of government arise at certain times and in certain ways, respective and irrespective of the state, and that problematizes certain objects of knowledge and renders subjects thinkable. “One isn’t assessing things in terms of an absolute against which they could be evaluated as constituting more or less perfect forms of rationality but, rather, examining how forms of rationality inscribe themselves in practices or systems of practices, and what role they play within them” (Foucault, 1980: 229–230). Here, we find styles of reasoning or rationalities that make governing and subjects possible. Investigating forms of government and the accompanying styles of reasoning through a project of power opens analysis to some of the underpinnings of practice and thought that shapes current modes of life. Such an investigation also opens analysis to specific subject formations, not only accomplished through regulatory, legislative, or administrative bodies, but also through the cultivation of the subject.

**Subjectivity, Resistance, and Freedom**

Subjectivity is “the way in which the subject constitutes [herself] in an active fashion, by the practices of the self, and are patterns that [she] finds in [her] culture and which are proposed, suggested and imposed on [her] by [her] culture, [her] society and [her] social group” (Foucault, 1988: 11). Subjectivity is not only the result of social, economic, and cultural categories to which one belongs, but is an effect of the diverse relations of power and games of truth to which one is submitted and to which one subscribes. Through a process of subjectivity, we affect our own mode or way of being to transform ourselves toward certain ends. These practices of the self are procedures and patterns found in one’s life that are “suggested or prescribed to individuals in order to determine their identity, maintain it, or transform it in terms of a certain number of ends, through relations of self-mastery or self-knowledge” (Foucault, 1997a: 87). The relations established with ourselves and with others reflect the varying modes of subjectification, particular arts of government, and modes of reasoning that determine the validity of our truth.

Dean (1995: 563) describes subjectivity as a process of government self-formation and ethical self-formation. The former consists of the ways that institutional discourses and attendant agencies and experts seek to fashion individuals within specified fields of
objects and categories and through one's aspirations, needs, wants, desires, fears, and capacities. Government self-formation is concerned with the active fashion by which conduct is regulated, shaped, and carried out. The latter field of ethical self-formation constitutes a mode of being, a way of relating to self and others, and consists of those practices, techniques, and rationalities linked to the self acting on the self. One cannot speak of ethical practices without considering those technologies and practices of the self that compel one to reflect upon oneself in order to achieve various ends. It is also through the ethical formations of the self that forms of resistance or counter-conducts emerge where individuals resist being tied to multiple and competing subject and object constitutions and being governed in certain ways (see also Chapter VI).

In the strategic interplay of the games of truth, subjects are not autonomous agents acting or resisting independently of social and subject constitutions, but operate at the level of power within diverse and multiple identifications, self formations, subject positions, and modes of reasoning. “[T]he subject is not consolidated but fragmented; not sovereign but dependent; not the absolute source, but a function that can unceasingly change” (Foucault quoted in Huijer, 1999: 66). With power operating on multiple and interrelated levels of possibility, resistances do not operate apart from or in direct opposition to its exercise, but in relation to the conditions of power that constitute such possibility.

resistances that are possible, necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant or violent; still others that are quick to compromise, interested, or sacrificial; by definition they can only exist in the strategic field of power relations. (Foucault, 1978 [1980]: 96)

Resistances do not operate against power, but against it effects — or a will to truth — that power seeks to produce. “Resistances thus take various roles as adversary, target, support, or handle in power relations while being the odd term in relations of power”

15 Ethical self-government is further characterized by four dimensions of ethical practice. The first ethical practice is of an ontological nature and is concerned with what we strive to govern in ourselves and in others (e.g. attitudes, behaviour). The second is ascetics and involves those self-forming activities that direct how we govern our way of being (e.g. acknowledging guilt). Deontological practices involve the stance we take or are given in terms of the rules and norms of a particular domain (e.g. taking responsibility). Finally, teleology is concerned with the objectives, aims, and what we hope to produce in ourselves and others (e.g. productive citizens) (Foucault, 1983: 238–240).
(Widder, 2004: 66-67). It is only when relations of power (or force relations) are arranged in such a way to constrain possibilities of thought or action that antagonism or resistance is replaced with a more or less fixed determination of conduct. It is when one “can direct, in a fairly constant manner and with reasonable certainty, the conduct of others (Foucault, 1988: 59). Freedom, then, is not something outside of, but rather the condition of power and what makes power possible, with freedom understood as not being constrained in such a fashion that other conditions or possibilities are eliminated. Power can only apply itself where there exist conditions and potentials that make up its exercise. As power transforms, divides, retreats, or multiplies, so do the conditions of freedom that make such power possible. Freedom then does not exist outside of power but, as a condition of its exercise, is constitutive in shaping the field of possibilities.

Freedom, particularly as it is advanced within modern civil rights and liberties, is more commonly understood as existing in some inherent attainable form, existing outside of mechanisms of oppression (see also Chapter VII). This conception of freedom remains consistent with rationalist thought that creates dualisms and hierarchical divisions of what is normal and abnormal or true and false and only by attaining norms of conduct and standards of living can freedom exist. Freedom, as such, can only exist against something that is un-free, and such determinations of un-free are made within the same forms of reasoning that give rise to what is or can be considered oppressive.

Such freedoms are suffused with disciplines and at once pose limits for the very thematic interests they would advance. If the individual obtains rights in that tradition, this would be another way in which identity has been 'problematized' and certain liberties set up within constraints. (Aladjem, 1991: 287)

With the prison emerging with modernist thought, for instance, it continues to be reasoned as a necessary device to manage and contain certain forms of harm, danger, and social threat. Within rationalist demands, determinations continue to be made around some consideration of social conducts, categories, or groups as abnormal, unacceptable, or irrational. These prescriptive determinations endorse the very legitimacy and necessity of shaping freedom and establishing limits. It is also part of the very specific forms of practice that make it difficult to reason a variety of conditions and
possibilities outside of what is established as free and un-free, rational and irrational, or desirable and undesirable.

Widder argues that it is “necessary to go beyond oppositional logics as perhaps a dimension of power continues to hide itself while we retain the comforts of an idea of resistance — and political resistance in particular — as being opposed to power”. Within the social, for instance, it is difficult to differentiate or maintain a distinction between penal and corrective tendencies from those liberal projects of freedom. A notion of freedom has its own usages and effects that implicates and subsumes liberating practices, political action, or resistances into other domains of production, coercion, and restriction; modern liberal projects and freedom are also forms of power that are difficult to recognize as they remain embedded in very specific dispositional and divisional logics and games of truth. A conception of freedom considered as something that can exist outside of what is determined as oppressive, ignores other systems of constraint and the more diverse and subtle facets that resistances themselves are the product or effect of the very problematic regimes and modes of reasoning they challenge.

In examining women within the multiple dimensions of power and knowledge, inquiry is to account for the constitution of the subject within a historical framework and how such a constitution has been accepted as true through specific rules and strategies. With modern power understood as operating at the level of truth games — or a will to truth — Foucault offers a means to locate individuals within modes of reasoning that seek to align political and social wills with objectives of government. These strategies are dynamic, restrictive, compelling, preventative, and productive, and are conditioned by the possibility of freedom. This inquiry is thus rooted in an analytics of the capillaries or a political anatomy of power that is diffused and distributed throughout the social and linked to the penal apparatus.

**Women, Feminism, and Penality**

With women and prison removed as the subjects and objects of study, concern is given to the formations and effects of power outside of state and institutional control and how women are enlisted within political and other social formations. This has the effect of avoiding the limits of theories that reduce analysis to state transformations or to assume a priori subjects who are somehow equipped to shape and give meaning to their
experiences (see Dean, 1994; Rose, 1996a). This does not suggest that women from prison do not experience the subjective effects of dispossession, but rather, by decentering and not discounting both the individual and the state from the focus of my analysis, other social processes are also more readily observed. Where a decentering of the subject and the state allows for an investigation of discourses, practices, and their effects, it has also been criticized for the 'death of the subject' and for removing a normative foundation upon which political action is based.16 This has been a concern in the analysis of women and for the collective struggles of feminist politics. Given this, I outline below some feminist and other engagements with Foucault's work and where some of the conflicts and concerns exist. Despite such tensions, however, his approach offers other insights, usages, and possibilities to inform those who struggle against divisive, repressive, corrective, or productive practices and regimes, without falling trap to rationalist demands of what a critique must do or offer.

Avoiding a Pre-Discursive Subject

Feminist discussion has increasingly turned to the instability, fragmentation, and fluidity of women's subject constitutions (e.g. Butler, 1990; de Lauretis, 1990). This has been particularly significant with feminist thought coming into disrepute with critical race theorists for treating women as a unified whole, while ignoring racialized and other intersectional categories (e.g. hooks, 1984; Crenshaw, 1991). To address these concerns, some feminist thinkers have found Foucault's work useful, even if slightly problematic, for his anti-essentialist and non-universalizing epistemologies, for revealing some of the more subtle and hidden forms of modern power, and for his discursive framing of the subject (e.g. Bartky 1988; Bordo, 1990; Butler, 1990; Sawicki, 1998).

Feminist thought has recently turned to a theorizing of the subject as fragmented and discursive as way to speak against and disrupt a priori assumptions and metaphysical approaches that universalize women and that limit agency within rationalist gendered divisions. Given a concern with reinscribing women within understandings and categories of sameness, feminist thinkers are increasingly problematizing the subject at the level of discourse and modern rationalism. Butler (1990), for example, has argued that in concerning ourselves with gender constructs, feminists ignore an ontologizing of

16 For a more detailed overview of this general debate and discussion, see for example Kelly, Michael (ed.) (1985) Critique and Power: Recasting the Foucault/Habermas Debate, Cambridge: The MIT Press.
sex. Gender, for Butler, is not a cultural construction of a pre-given or biological sex but rather is an effect of discourse that designates what sex is: "gender is not to culture as sex is to nature; gender is also the discursive/cultural means by which 'sexed nature' or 'a natural sex' is produced and established as a 'prediscursive', prior to culture, politically neutral surface on which culture acts" (Butler, 1990: 4). Current understandings of gender maintain an understanding of sexual differences that privilege a male norm by considering sex a stable biological category. For Butler then, even the body and one's sex materializes through discourse. In other words, discourse itself has brought an understanding of the 'body' and 'sex' into being, rather than existing in some natural or pre-discursive form. Similar arguments can be made whereby in constructing women as a unity, other dominant categories of thought (e.g. white, middle class, heterosexual, and the like) are used as the normative ideal. "While feminists are united in showing the exclusion of the feminine, of the body, of the emotions, in the masculinist universal subject, so their own constructions can exclude and oppress many femininities" (Hudson, 2003: 130). Such a rethinking of the body and sex highlights the variety of limits imposed by discourse, and how a decentering of the body and discursive subject opens other possibilities for thought.

There are, however, reservations amongst these thinkers with respect to Foucault's androcentric writing: "Foucault treats the body throughout as if it were one, as if the bodily experiences of men and women did not differ and as if men and women bore the same relationship to the characteristic institutions of modern life" (Bartky, 1988: 63). Where Foucault disrupts a unified understanding of the subject, he nonetheless treats the body as a unified whole, thus ignoring the subjective realities experienced by women, racialized groups, and others. There is also a further concern with Foucault effacing the subject by focusing on how subjectivity is produced and thereby also removing the possibility for a conception of personal autonomy, moral responsibility, and a normative platform for political action. I highlight below some of these concerns with the 'death of the subject' and consider other ways Foucault's work might be considered.

**Essays of Refusal**

Where a decentering of the subject allows for an investigation of discourses, practices, and their effects, it has also been criticized for the death of the subject and for removing
a normative foundation upon which political action is based. In his work *Language, Counter-Memory, Practice* (1977) Foucault states: “Nothing in [woman] — not even [her] body — is sufficiently stable to serve as the basis for self-recognition or for understanding other [women]” (153). If neither sex nor gender is a stable category for recognition, there can be no platform for which to mount claims of oppression and subjugation. Criticism of Foucault’s work has been leveled by feminist thinkers who argue that his refusal to offer a normative position or deterministic account of the subject leaves no foundation for political action or room for resistance. “Only with the introduction of normative notions could he begin to tell us what is wrong with the modern power/knowledge regime and why we ought to oppose it (Fraser, 1989: 29). Fraser is often cited as critical of Foucault for seeing power as an omnipresent entity that is both productive and repressive, thereby rendering it normatively neutral and hence difficult, if not impossible, to determine forms of oppression. This lack of direction, as argued by Fraser, is a result of power being conceptualized as everywhere and always potentially dangerous, which leaves no room for determining what forms of power are more desirable over others and what positive change can or indeed should be made. Similarly, although McNay acknowledges that Foucault has disrupted popular accounts of heterosexual normativity in his genealogy of sexuality, she also suggests that he fails to distinguish between practices that are “merely suggested to the individual and practices that are more or less imposed” (1992: 193, emphasis in original). Harstock (1990), like Fraser, suggests that Foucault’s conception of modern power renders ‘bodies docile’ and individuals are the mere effects of power relations making his project incompatible with the aims of a liberatory politics of feminism. According to these authors, Foucault fails to offer any normative criteria to distinguish between more destructive or repressive practices from those less oppressive forms and fails to account for the subject.

Even for those thinkers who resist a unifying category of women, some nonetheless agree that it remains a useful strategy within current modern practices and modes of reasoning. Such feminists maintain that there is a need for some sort of identity to

\footnote{For a more detailed overview of this general debate and discussion, see for example Kelly, Michael (ed.) (1985) *Critique and Power: Recasting the Foucault/Habermas Debate*, Cambridge: The MIT Press.}
forward collective interests of women. As Elizabeth Fox-Genovese (1986: 134) argues, “[f]rom the perspective of those previously excluded from the cultural elite, the death of the subject or the death of the author seems somewhat premature”. To do without a normative or collective stance, risks undermining or trivializing immediate and pressing social and political concerns for feminists.

Critical race theorists have also been cautious in taking up Foucault tout court for his refusal to engage with a notion of hegemony and identify oppressive relations, and for his focus on ‘Western’ cultures that act as screen-allegories that exclude narratives of imperialism (Yudice, 1989: 230). Where critical race theorists and whiteness studies have been concerned, not all categories of oppression are the same and have very different discursive effects for those who experience them: “capitalism, patriarchy, and white supremacy are not isolated forces, but rather systems that traverse the entire social horizon and intersect at multiple points” (Weeks, 1998: 5). A notion of oppression thus tends to be generalized to other categories, with race ignored or collapsed into unifying categories of women. This creates a false unity between women and categories of race, class, sexuality, and the like (Bell, 1995). Even where Foucault is criticized for failing to address notions of hegemony, within some of the current forms of theorizing there is a tendency to generalize a notion of hegemony across domains and impose other subject obligations. While such strategies have their uses in making systems of oppression intelligible, it refuses other hegemonic powers through ‘principles of closure’.

Despite his critics that suggest the subject has been conceived as merely an effect of discourse and power, Amy Allen (2000) argues that Foucault’s archeological and genealogical accounts did not write out the subject from analysis, but removed the subject from its centralizing position that it has occupied since Descartes. “Far from eliminating the concept of subjectivity, such a move merely indicates a shift in the explanatory priority of that concept” (121). For Allen, Foucault’s approach is “an elaboration of the historically, culturally and socially specific conditions of possibility for subjectivity, rather than its eradication” (114). His project has thus been an inquiry into the ‘conditions of possibility’ and to consider how the subject has been historically constituted and not determined. Such an approach draws attention to the diverse and multiple constituting elements of the subject that can disrupt the more subtle and taken-for-granted discourses. By creating a space for considering how the subject has
been constituted, analysis is opened to other possibilities and modes of subjectivity so as to think, do, and be otherwise.\footnote{1}

Feminism and Penalty

Further to this argument, in developing a unifying theory of women in and out of prison for political action or analysis, we are also confronted with the possibility of reconstituting penal groups within pre-discursive assumptions or predefined penal orderings. This also has the discursive effect of generating new knowledges and practices in the field and creating other localities for correction. By focusing on the criminalization of women, there exists more potential of producing other divisions that further embed women within both gendered and 'criminal' categories: “a focus on criminalisation, or the production of the ‘female delinquent’, could have the paradoxical effect of reconnecting punishment to criminality” Howe (1994: 180). Relations of power that privilege a male norm are also diverse and mutable, and thus similarly promote diversified norms of what is considered desirable, preferable, and acceptable for women (Nash, 2002; Parisi, 2002). This can also problematize, trivialize, minimize, or pathologize women’s inconsistencies or deviations from such norms. In creating definitive penal categories of women, a variety of norms are used for mounting claims that recast women into existent or other problematic regimes, and often advanced within projects of freedom. Through normative political commitments against patriarchy, we risk reconstituting women within other neglected and problematic discourses, regimes, institutions, and structures — patriarchal, penal, or otherwise.

For instance, Pat Carlen (2001) argues that the genuine therapies important to women in prison are overlooked as a result of the governmentality work that makes suspect those knowledges linked to the disciplines. Moving forward in this way is to recognize the limits such categories present, while nonetheless working with a more or less unifying notion of women to shape everyday and current modes of living (Daly & Maher, 1998; Comack, 1999). As such, attempts are made to integrate or fuse feminist politics or standpoint feminism with Foucauldian or post-structuralist approaches.

Contingent universals are intended to ensure that their post-structuralist perspective retains its links with feminist politics and that it
does not, in proclaiming the ‘death of the subject’, undermine the possibility of challenging the masculinist institutions of modernity which remain powerful and entrenched, and which continue to oppress and exclude women of many racial, ethnic and religious groups. (Hudson, 2003: 137)

This must not, however, necessarily give in to the demand to resolve the contradictions or tensions that exist in doing so. Maintaining a unified orientation to politics is also part of an exercise of power — or will to truth — that seeks consistent, normal, and rational modes of reasoning. In delivering normative commitments, a politics need not succumb to some necessity or threat of maintaining a uniform, complete, qualified, or pure commitment or to ‘lay down the law for the law’. Part of disrupting that exercise of power is not only to act, but to refuse rationalist demands. Consistent, reasoned, and unifying agreements are not the only way politics can or ought to be done. Essays of refusal can also undermine or subvert divisions and hierarchies by denying them their claims to truth. There remains, at least at this point in history, some need to recognize the mutability and plurality of subject constitutions and multiple, competing, and contradictory politics.

Opposed to writing a totalizing or universalizing history or offer a normative political commitment, Foucault not only refused some of the demands of a modernist project, but also revealed some of the more coercive aspects of its exercise. This approach, although it does not subscribe to current forms of political action or liberation politics, nonetheless establishes its own measures for identifying potentially problematic or dangerous regimes. Through a notion of power as multiple and relational rather than repressive and totalizing, such an analysis subscribes to a certain commitment in challenging existing arrangements and a will to truth. Even Foucault’s critics ask how women and others have been variously, discursively, and diversely constituted. In asking, it becomes ever more difficult to assume some universal foundation of women, of power, and of hegemony, without creating other problems, localities, and subject for the games of truth. Within current modes of reasoning, we inevitably run the risk of reconstituting the subject within some set of relations that will inevitably foreclose the possibility of seeing other problematic conceptions of the subject. Rather than reaffirm an existing framework or impress a new one, I adopt Foucault’s methods or analytics as
part of an essay in refusal and to reconsider penal practices and other conditions of possibility.

With women and prison removed as the subjects and objects of study, concern is given to the formations and effects of power outside of state and institutional control and how women are enlisted within political and other social formations. By decentering, although never discounting, both the individual and the state from the focus of analysis, other social processes can be more readily observed.

**Genealogy**

In addition to using Foucault's framework of modern modes of power, I also adopt his genealogical approach. Throughout various works such as “Nietzsche, Genealogy, History” (see Foucault, 1977), “Two Lectures” (see Foucault, 1980) and “Questions of Method” (see Foucault, 1991c), Foucault elaborates and explores some of the contours of this method. Genealogy, according to Foucault (1980) is

> a form of history which can account for the constitution of knowledges, discourses, domains of objects etc., without having to make reference to a subject which is either transcendent or in relation to a field of events or runs in empty sameness throughout the course of history. (1980: 117)

Genealogy, briefly understood, is an historical analysis and social critique of the formations and conditions that shape our present in order “go beyond them” (Foucault, 1984: 50). Rather than history arising from the intentions of individual actors, genealogy is an investigation of complex and multiple power-knowledge relations and how the subject is historically constituted. According to Dean (1994: 35–36) genealogy offers a way of analyzing events and discourse and their relationships without assuming they reflect some natural law. History, here, has an origin in our present, not in terms of a necessity or inevitability but in terms of a contingency of events. To reveal this contingent character, genealogy maps a terrain of events in their singularity along with its multiple constituting elements, plays of force, discursive formations, material conditions, and modes of reasoning that make certain domains possible: “it is to discover
that truth or being does not lie at the root of what we know and what we are, but
the exteriority of accidents" (Foucault, 1977: 89). In this way, genealogy questions
existing and emergent forms of knowledge and what is currently presented or given to be
known and how it has been made intelligible. It is a history of the events that constitute
a particular human experience and whose discursive effects create a problem for thought
and practice.

Within some of the more traditional historical analyses that frame the present as a
rational linear trajectory, the object of study is often framed in terms of what is described
as a ‘presentism’: “the unwitting projection of a structure of interpretation that arises
from the historian’s own experience or context onto aspects of the past under study”
(Dean, 1994: 28). Briefly understood, presentism is conveying an understanding of the
past in light of and with respect to our understandings of the present. Within such
understandings, analysis thereby attempts to develop continuities and underlying causal
explanations to make sense of current arrangements; arrangements often assumed to be
somehow essential or inevitable to the world today. From this, there is a general failure
to question or challenge existing or emerging practices along with a tendency to assume
that what currently exists is somehow more normal, natural, and favourable to what
previously existed. Against these more traditional historical accounts is a genealogical
approach that serves to reveal discontinuities where continuities were thought to exist
or establish continuities where none were previously considered; it is not a history of the
past in present terms, but a history of how the past is reflected in our present.

Problemizations and Agonisms

Drawn from an archaeological method that investigates the discursive and anonymous
rules that regulate statements and disperse discourses, genealogy also shifts attention to
the material conditions, practices, institutions, and discourse formations that shape and
make up a domain and that give rise to problematizations. “[A problematization]
develops the conditions in which possible responses can be given; it defines the elements
that will constitute what the different solutions attempt to respond to” (Foucault,
1997a: 118). Problematization occurs when questions, tensions, or crises emerge within
a certain domain and, along with modes of reasoning, establish how a certain problem
can be understood. By considering such problematizations, we also consider the diversity
and discursive trajectory of present formations and the event in its singularity.
Genealogical analysis is thus to discover what makes the diverse solutions to the challenges, obstacles, and problems of politics and government possible.

One way of investigating such problematizations is by studying emergent forms of agonism which, for Foucault, is a permanent provocation of the power–knowledge relationship (1982: 790). It is to investigate the forms of agonism that emerge and for which problems for government arise. Agonism, not to be confused with resistance, are those practices that provoke, prompt, and destabilize particular forces of power and question or alter the direction or focus of its exercise. Analysis then is to take the forms of agonism — or disruptions — as points for consideration as they reveal changes or shifts in thought and practice.

For example, to find out what our society means by sanity, perhaps we should investigate what is happening in the field of insanity. And what we mean by legality in the field of illegality. And, in order to understand what power relations are about, perhaps we should investigate the forms of resistance and attempts made to dissociate these relations. (Foucault, 1982: 780)

Where resistance reveals the effects and conditions of power against which it struggles, agonism is the point of problematization. I therefore look at the domain of women and penal release in terms of its agonisms and problematizations where a variety of discourses and practices meet and intersect to address women as a point of concern.

Before concluding this section, I would like to briefly address some concerns with a genealogical approach, particularly in reference to the field of penality. It is suggested that within his historical investigations, Foucault mistakes utopian discourses or idealism from reality or actual practice, such as prison reform ideals like the panopticon (see Garland, 1985, 1990). For example, Brown (2005) argues that the shift towards more punitive trends, as discussed in Chapter I, was not widely foreseen given the lack of empirical specificity and non-discursive focus. That is, penal theory largely failed to ground analysis in the actual everyday events and political struggles that undermined acts of resistance and promoted a new punitiveness. Brown further suggests that a failure to investigate the everyday and grounded aspects of penality can also undermine the
utility and real value penal practices can have for prisoners. Halfway houses, for example, have been useful for prisoners to re-establish themselves in the community. I do not debate here the usefulness in certain practices as such, but rather reiterate that genealogical analysis is not an investigation of the realization of reforms, nor does it determine which reforms are more favourable over others; rather, it asks what makes such reforms possible. A genealogical approach draws attention to the ways a particular domain is contemplated and shaped rather than measuring the intentions of reform efforts, the effects of programs, or providing criteria for determining such. It does not deny the necessity of political action, but denies the origins of truth on which thought and practice are based and that, as Voruz (2005) argues, strengthen the illusion that one can objectively understand what is going on.

Genealogy is not a description of things as they actually are, but a history of how things have been shaped and come to be seen. As outlined above, it avoids imposing unifying categories of thought and normative engagements of the subject and shows how truth is historically produced within discourses which themselves are neither true nor false. “There is nothing absolutely primary to interpret because, when all is said and done, underneath it all everything is already interpretation” (Foucault quoted in Dreyfus & Rabinow, 1983: 107). Understood in this way, it is not possible to place ourselves outside of analysis but to use different rules and analytical tools to look at things from a different vantage point.

Reading the Archive
To carry out this work, attention is given to the events, problematizations, forms of agonism, and reason giving practices that emerge within the domain of women and penal release in NSW. For the following section, I shift attention to some of the more technical aspects in carrying out this work. I discuss below the sources of materials used for an analytics of power and genealogical approach and some of the possible limitations of this thesis.

Analysis for this work begins within colonial Australia, beginning in the late eighteenth century to the present. I have examined various legislations, policies, documents, memos, programs, and academic literature that pertain to women and prison release in NSW. This largely includes those materials related to prison release schemes, but also
consists of other related sources in fields such as health, employment, and support services. This material includes local and non-official programs and state documents such as sentencing acts and guidelines, commissions, task forces, and committee reports, discussion papers, correctional operational procedures and manuals, research reports, academic studies, 'community' agency publications and flyers, agency minutes and reports, statistics, trends and issues reports, conference and seminar papers, briefing papers, 'community' newsletters, news articles, pamphlets, and memos. These materials have been collected from the NSW Department of Corrective Services, NSW Brush Farm Corrective Services Academy Library, NSW Law Commission, NSW Attorney General, Australian Bureau of Crime Statistics and Research, NSW Bureau of Crime Statistics Research, and legal aid services; non-state agencies such as NSW Department of Housing and NSW Council of Social Services; academic institutions such as the Australian Institute of Criminology, the NSW State Library, and the NSW State Archives; and advocacy groups such as Sisters Inside, Justice Action, Beyond Bars Alliance group, and the newly formed NSW Women's Advocacy Group. I also investigate those documents that Foucault refers to as prescriptive texts for the purpose to discover the specific problems attached to everyday activities:

[documents] written for the purpose of offering rules, opinions, and advice on how to behave as one should: 'practical texts', which are themselves objects of a 'practice' in that they were designed to be read, learned, reflected upon, tested out, and they were intended to constitute the eventual framework of everyday conduct. (1985 [1992]: 12–13)

This variety of research material reveals the multifaceted and intricate formations that occur both at the level of thought and intended practices. This analysis is at the level of discourse (i.e. a field of knowledge that constitutes power/knowledge relations) and the discursive (i.e. thought and practice and language and events that give regularity and legitimacy to something), and what makes practice possible through a whole set of relations between various groups, individuals, material conditions, institutions, events, practices, procedures, norms, and everyday language. They are the range of relations and practices that characterize the discursive throughout history.
The basis of the material that survives the past is what Goldthorpe (1991) refers to as the relics, residues, deposits, or traces of the past, which are finite and always incomplete. Historical narratives and texts are tenuous and discontinuous. I am therefore not concerned with the complete record, but with the relics that hint of the practices used, ideas applied, problems attached, and the discourses and arrangements that make certain kinds of truth possible. As Castel (1994) suggests, it is not to provide a representation of real life but to reveal what makes certain programs of knowledge and power possible. By exploring the archive in this way, analysis is not to provide the meaning of practices, but to reveal lines of thought and plays of force that fashion and shape the domain or dispositif of women and penal release.

As noted above, nothing is ever complete or final, and so I briefly discuss some of these occurrences with my work. First, colonial documents, for instance, have been lost, damaged, or are illegible to read. Similarly, certain deletions and omission have been made with various NSW Department of Corrective Services operations and procedures manuals (see Appendix III). Even though I do not rely on attaining a complete record, I nonetheless use secondary materials to inform analysis where there seems to be a dearth of material or where the record appears empty. As a result, analysis may, at times, tend to lapse more into a chronological commentary of events as a way to offer context and make some sense of certain conditions of emergence in the field. Secondary sources also offer limited insight as they generally consist of historiographies or what are considered official histories of events. Secondly, there are other domains linked to women and penal release that I have not investigated, such as convict transportation from Britain or release decisions made by the NSW Parole Authority. With a focus on penal release and the social, I more or less limit my sources to this arena. Thirdly, this analysis does not incorporate what are considered by some to be extra-discursive sources, such as the experiences of women (Cain 1990; Comack, 1999; Carlen, 2001). Although some interviews with women are used, they are taken from reports or commissions. As a result, analysis may overlook what Garland considers to be "the wider symbolic significance of penal practices" (1985: 34) for those who live and experience the field. Finally, because focus here is on women, I consulted mainly those documents related or linked to women and penal release in NSW. Unless other practices or categories

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21 Foucault defines the extra-discursive as "dependencies between discursive formations and others which have been produced elsewhere than in the discourse" (1989 [1996]: 38).
emerged in relation to this field, other concerns, events, and problematizations may not have been considered. As such, I too project a certain screen allegory that neglects other formations, such as imperialist forms of power as argued above. What informs the discourse of women and penal release in NSW involves diverse multiplicities that are not necessarily included in this analysis. While I do not hold this to be a failure to achieve a fuller or more truthful account, it nonetheless shapes analysis of this domain. Given that the intellectual can no longer be considered an objective observer, such limitations are necessary and important to consider given that our own work is also diversely invested and implicated in power and the production of truth.

Conclusion
By examining the variety of heterogeneous materials, I consider the penal apparatus as a conduit for systems of thought and practice and that supports particular modes of reasoning: it is discursive as well as material as it reaches and influences various aspects of life, language, and labour. I approach the area of women and penal release by considering how the apparatus makes use of and supports diverse and multiple identifications and schemes that categorize, locate, and enmesh women in very specific ways and to consider how the apparatus develops, maintains, perpetuates, and even disrupts such operations. In summary, to carry out this analysis, I make use of Foucault’s work on modern forms of government and modes of reasoning, as well as adopt his genealogical approach. I focus on forms of agonism and problematizations as the points of analysis to reveal some of the more subtle and hidden aspects of power that fashion women in the domain of penal release in NSW. Through such an analysis, I resist framing women within a universal category of experience, gendered or otherwise, and look to see how women are framed within particular conditions of possibility and how they are contemplated and shaped through particular strategies, games of truth, and subjectifying practices, and are bound to particular ways of being.

In looking at women and penal release, the focus of analysis is not on the institution of release or the women, but rather those unities, discourses, and practices that make them objects of knowledge and subjects to certain ways of living and modes of being. As noted above, decentering the subject and institution from the focus of analysis avoids an a priori theorizing of women within a unifying knowledge and dislocates power from a central institution or group. With such a shift in analysis, the question is no longer how
to liberate the individual from the institution or women from the penal apparatus, but how to promote new lines of thought, new discourses, and new practices to rethink women in this domain. Although I do not present a normative scheme for action or liberation politics, it remains an analysis linked to political concerns by making the exercise of power questionable, unreasonable, and even intolerable. A critical knowledge must not necessarily value one regime of truth over another, but can also refuse what exists and serve to disrupt current modes of reasoning to reshape ways of thinking and being.
Chapter III

Checking Out but Never Leaving:
Assignment and a Ticket-of-Leave Scheme

The degree of civilization in a society can be judged by entering its prisons.
Fyodor Dostoevsky

What is fascinating about prisons is that, for once, power doesn’t hide or mask itself.
Foucault, 1989 [1996]: 77

In colonial Australia, a system of identification and regulation was streamed into the social body to ensure a particular circulation and management of the convict population. Early characteristics of this system are found in the assignment system and ticket-of-leave scheme that eventually transformed into basic aspects of current penal administration and prisoner reform. Where release schemes were initially developed to order colonial life, they eventually emerged as a ‘logical’ progression of prison release. For women, although these schemes were not necessarily or specifically tied to gender, they were adapted to specifically administer women from the very onset. Linked to a bio–politic and privileging system of freedom, women were circulated through the management of cleanliness and contamination, sexual conduct, labour, and marriage.

In this chapter, I provide insight into the rules, formations, and strategies that helped shape those penal and colonial discourses that organized convict women in NSW. Despite a lack of political or public discourses invested in the area of convict women, women were and continue to be maintained and managed in very deliberate and organized ways in and out of public and private spheres. This inquiry is thus rooted in the ways women are considered and contemplated without attempting to measure or qualify the space women occupy or the level (or lack) of consideration given. It is not so much that colonial women were governed in marginal spheres of living, but were actively managed in the interstices of various networks of colonial life and penal administration that were central to bio–political and disciplinary powers.
In the study of penal systems, the prison is often considered as the central apparatus of control, regulation, punishment, and so forth. Without discounting some of the more noted historical analyses that have challenged common understandings of 'crime' and punishment such as Rusche & Kirchheimer's (1939 [1968]) analysis on economic production and prison labour or Freedman (1981), Rafter (1983), and Dobash, Dobash & Gutteridge's (1986) historical analyses of women and penal and prisoner reforms in the United States and Britain, what I suggest here is that penal release schemes are also central in shaping a character of punishment and ordering of penal and colonial life. In colonial Australia, penal release schemes, similar to those promoted today, were developed prior to the establishment of the prison. These schemes afforded a very particular arrangement and regulation of convict life and labour that made use of the prison to satisfy its own ends. That is, prior to the establishment of the prison as a decisive instrument of punishment and moral/social regulation, the prison was initially used in the development of colonial life by facilitating penal release schemes.

Penal release practices for women emerged through various institutions and practices that developed into essential release practices for women in the system today. I sketch the earlier trajectories of women and penal release schemes in the colony and explore the discourses, relations, networks, and strategies that initially made up and shaped this domain. I show how past penal practices are based on social contingencies that are central in shaping and informing a character of penality today and how the social and the penal mutually inform and condition the other's exercise.

Women are often considered to have been largely neglected in political, economic, and public discourse as a result of gender divisions (Salt, 1984; Robinson, 1988; Daniels, 1998). An omission of women from within particular spheres of life and labour does not, however, necessarily suggest that women were neglected per se, but were rather focused upon, problematized, and thought of in different localities and with a different focus. Although convict women were not necessarily negotiated, if even considered, in the same way as men, the effects of common or dominant penal thought and practice nonetheless organized women in definitive ways. It is also through a certain neglect from specific domains that convict women were promoted, since even such a neglect has its own usages and provisions that localize and organize women in other sites. A failure to attend to women through the more popular channels is also an aspect of how women are
identified and managed in the interstices of particular institutional, economic, public, and private spheres. Ballantyne, in looking at South Asian historiographies, suggests that women emerge in the colonial archives when they are needed in the space of imperial production (2001: 94). That is, women emerged in colonial historical accounts when it was conducive to and formed a part of the social and political frameworks of production. In this sense, other knowledges and experiences of women do not form a part of colonial historiographies, but it is rather within a problematization that women and other categories emerge and are given consideration in relation to and against the prevailing and dominant features of the apparatus.

Considering women as neglected can undermine some of the formative relations that exist between women and the penal apparatus. As Bosworth argues, it obscures "how ideas of masculinity and femininity both shaped and gave legitimacy to the practice of imprisonment from its origins" (2000: 266). Quoting Naffine (1997), she further argues that "we must relinquish the traditional scientific desire to document exhaustively, to know fully and, hence, to master the individual as scientific object of investigation" (267). An understanding of women as neglected is often the result of traditional historical methods that make social actors as central to understanding social practices (Manicom, 1992: 444) and which can overlook other constituting forces. As a result, those formations that take place and the relations that develop for women can dissolve into something considered negligible or marginal, missing other multiple relations of how women exist within and between domains and that offers other accounts of present day understandings. While it is maintained that women are often missing from political, economic, and social concerns in the field of penality, they are nonetheless governed in ways that, although may not necessarily dominate certain domains of life, are a significant part of a penal ethos that enlists and ties categories, such as women, to its features.

**Colonial Release Schemes**

The transportation of convicts from Britain to Australia in the late 18th and early 19th centuries for colonial expansion was occurring at a time when bio-political and disciplinary mechanisms of power were being refined and organized to better organize
Knowledge was developing around concerns of the body as an individual site of control and as a political site invested in the concerns of the health of populations (Foucault, 1978 [1980]: 136-137). In Australia, penal thought and practice was strained between colonial development and emergent penal discourses and reform initiatives associated with notions of civility and morality. These reform initiatives, mostly generating from Britain but also coming from the United States, emphasized strategic and definitive punishments where colonial affairs were organizing around reproduction, expansion, and development.

With an emphasis on liberal and civil codes, transportation and penal management in the Australian colonies were becoming a point of concern for British government. It was not until the colony began to organize itself outside a reliance on convict labour that penal reform initiatives and philosophies of rehabilitation emerged as the underlying ethos of convict management with the prison as the reform mechanism. Reform initiatives, drawing upon earlier convict arrangements, emerged as an essential and indispensable aspect of prisoner management. Penal release was a formative device that made an arrangement of reform possible and, along with systems of identification developing throughout the colony, helped shape a penal character. Initially, prisons in early colonial Australia were reserved only for those convicted within the colony, and early convict arrangements were made with little reference to the prison itself. With an initial focus on colonial development, the management of convict women outside the prison was a problem for government from the onset and prior to the predominant use of the prison.

Where it is often assumed that release schemes were developed in tandem with the prison to assist prisoners to adapt and adjust to life outside, these schemes have been informed by and developed according to penal formations outside the prison. While various methods of penal regulation and correction eventually shifted emphasis towards the operations and capacities of the prison, penal release schemes reflect a redevelopment and continuation of early administration of the convict population. It is here that prison aftercare emerged as part of an effect of ongoing penal reform initiatives. Linked to more elaborate identification schemes and modification strategies,

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22 Women arrived in Australia with the first fleet in 1788. A total of about 24,960 women were transported, which made up around 15% of the total transported.
prison aftercare facilitated shifting penal rationalities that tied prisoners to other sites of penal and corrective knowledges. I detail below how the early NSW colonial penal release schemes were used to administer women and how they were eventually established as a necessary component of prison release.

A Ticket-of-Leave Scheme
The character of early convict regulation is particular to its local context as well as to its colonial ties and obligations. The transportation of convicts to foster the variety of social, political, and economic arrangements within Britain gave way to concentrated forms of penal labour within Australia. For colonial growth, penal schemes were primarily developed around the labour of individuals and their capacity to promote the health and strength of the colony. For women, penality was extended to the regulation of sex and their reproductive capacities that were ordered along the lines of social and moral disease and contamination.

The assignment of women to a domestic locale was the most common way of organizing women on arrival in the NSW colony. The dispersing of women’s labour had stabilizing effects for the colony, while keeping the women obligated to and tied within penal and colonial management. Release schemes for convict women from penal obligation nonetheless ensured women remained (re)productive within domestic service and marriage.23 With convicts serving a seven year, 14 year, or life sentence, the earliest penal release scheme was the ticket-of-leave. Linked to one’s sentence, a ticket-of-leave was evidence that a convict was permitted to work outside of government service and assignment or off the ‘stores’, and was officially granted to those convicts of good and industrious behaviour.24 Penal release offered a certain ‘freedom from’ government servitude prior to the end of a sentence and established an early privileging system through incentives for work and property. The ticket-of-leave, building on previous convict identifications that accompanied convicts from Britain, described a convict’s

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23 In a letter to Castlereagh dated August 1806, Governor King wrote “It certainly would be desirable if marriage were more prevalent, as every encouragement is given for their entering into that state” (Robinson, 1988: 252).

24 For women, a ticket-of-leave could be issued after two years for a seven year sentence, after three years for a 14 year sentence, and after four years for a life sentence. Unless a pardon was given, a ticket-of-leave was issued indefinitely or until sentence expiration.
physical and visible details, ‘crimes’ and convictions, punishments received, name of
master or details of employment, as well as the reason the ticket was issued.25

Despite its use as a release mechanism, tickets-of-leave were also used to maintain and
regulate various aspects of convict life such as through mandatory monthly round-ups
or musters, mandates to remain lodged in one area, and to attend divine worship each
Sunday (see Appendix IV for an overview of the regulations). While it is argued that
tickets were issued to relieve government of superintendence and maintenance, (e.g.
Ramsland, 1996; O'Toole, 2006), preserving jurisdiction over convict life and affairs was
also a primary interest for colonial development. According to Governor King in a letter
to Portland in 1802, tickets were “to prevent irregularities and the loss of labour”
(Historical Records of Australia, 2003: 424). The use of early behavioural bonds
between individuals and colonial administration, having freedom and incentives tied to
colonial development, and delimiting boundaries on movement through the use of
identifications, also facilitated the development and circulation of penal thought and
practice throughout the colony.

Convict women were a problem for colonial management from the onset, and
identification schemes were primarily organized along lines of women’s sexuality,
reproduction, and labour. As convicts, women could be granted tickets-of-leave, but as
women, access to such schemes was administered through a private or domestic
assignment system that placed emphasis on women’s domestic labour and reproductive
capacities. Although tickets were occasionally granted to women for private land
ownership or public labour, they were more often allocated to women who could
demonstrate loyal servitude while on assignment and to promote cohabitation, marriage,
and children.

Women’s sexuality and childbearing were closely regulated as they were a part of
colonial development tied to knowledges on social and moral health and growth. Paula
Byrne (1993), in her analysis of women and the courts in the colony, points out that the

25 Each ticket-of-leave ‘butt’ more specifically gave the following information: prisoner’s number, name,
ship arrived on, master of ship, year of arrival, native place, trade or calling, offence, place of trial, date
of trial, sentence, year of birth, complexion, height, colour of hair, colour of eyes, general remarks, the
district the prisoner is allocated to, the Bench who recommended her, and the date of issue of ticket.
There are also notes of change of district and conditional pardons on most of the butts.
courts were not only concerned with women’s sexual morality or disturbances, such as prostitution, but also with childbearing activities. For instance, court cases on the death of new born children in 1803 often indicted women for concealing the birth of a child. The emergence of infanticide cases in the courts did not so much raise concern with the actual death, but rather for secrecy and not disclosing one’s pregnancy (ibid: 257). Emphasis was placed on ensuring a more certain and specific visibility of the women to better regulate and manage women and their reproductive and child raising capacities. In 1830, the Parramatta Factory Committee urged the building of a separate nursery so as to prevent women attempting to gain early entry into assignment or marriage by killing their child (Principal Superintendent of Convicts, 1848). In the late nineteenth century, abortion and infanticide were the most common acts for which women were charged in Australia. Joy Damousi (1996) also points out that women who left children behind for other pursuits, such as for economic gain or to live out of wedlock, were referred to as the abandoning or wandering mother. Such terms resonate with references to the native Aboriginal women that reflect a certain civil and cultural anxiety around women who abandoned their husbands and children and who acted outside of acceptable social norms of civility and a perceived colonial good. By reinforcing marriage and childrearing, penal knowledge sought to promote codes of civility that also ensured a certain visibility of and access into the lives of convict women to safeguard and build the strength and capacity of the population.

While not a great detail has been documented on Aboriginal women in the context of colonial penal life in NSW, much of what is known reveals a regulation of Aboriginal peoples via geographic space (see also Chapter I for a discussion).

Crucially they appealed to white sentiments and anxieties in which Aboriginal people were regarded as a social and sanitary menace who needed to be quarantined away from white communities. These sentiments and the social hygiene rationale associated with them were never far from the surface of public debate or official policy. (Hogg, 2001: 363)

While I further discuss below the regulation of convict women around notions of disease and disorder, the segregation of Aboriginal peoples largely discluded them from the
protection or due process of the law and other social entitlements. Aboriginal men and women were largely regulated on the reserves and stations and were often pushed of their lands and displaced to promote white settler livelihood. The effects often resulted in various physical and political resistances that were met with violence, land evictions, control, and confinement. From 1912, Aboriginal women were faced with the threat of removal of their children through an assimilation or ‘dispersal’ policy of the Aborigines Protection Board and Welfare Board, now referred to as the ‘Stolen Generation’ (see Hyaden, Royal Commission into Aboriginal Deaths in Custody, 1991). For those Aboriginal women in the urban centers, and similar to convict women, efforts were made to regulate conduct through marriage, the inspection of homes, and keeping children vulnerable through removal policies.

Women as Disorderly and Diseased

With the ‘criminal’ defined at the level of their nature around the 18th and 19th centuries, and with knowledge circulating around questions of the population, health, disease, and sexuality emerged as a way of organizing knowledge around women. In the colony, convicts required a certain normalizing and visibility rather than specific prohibitions and women were bound to both penalty and sexuality to ensure this occurred. As Suzanne Hatty suggests, “[o]ne function is to order the sexual transaction and to render it predictable and consolatory, and the principal component of the female gender role, whether deviant or not, is organized around the concept of sexuality” (1984: 120). The overlap between bio-political functions and disciplinary measures of government ensured a knowledge and visibility of the women that organized them through and against their sexual and reproductive activities. Regulation of convict women was carried along schemes of maintaining order and public health and the containment of disorder, contamination, and disease.

The civil and moral regulation of health, cleanliness, and hygiene offered a means to shape and regulate a certain colonial health, order, and stability. Dobash, Dobash & Gutteridge (1986) argue that in Britain, scientific discourses circulating around this time classified women prisoners within categories of pathology such as biologically perverse, sexually aberrant, emotionally disturbed, and intellectually deficient. Women in the colony, convict or otherwise, were particularly scrutinized and regulated for sexual misconduct, insolence, absconding, drunkenness, and foul language (Smith, 1988: 236;
Byrne, 1993). With women linked to some aberrancy of the natural order (see also Zedner, 1991 on Lombroso), thoughts of disease and moral disorder served as a penal feature that magnified a particular need for their regulation and containment.

The sexual conduct and childbearing capacities of women were commonly used to keep women under scrutiny and confinement. Even as late as 1944, women who were diagnosed with venereal diseases were confined at Sydney's Long Bay Reformatory (Sturma, 1978, 1988). The prevention of the spread of disease and disorder lent itself to a penal formation throughout the colony that could set the women apart for a more effective regulation. This was not only achieved through regulation, but also by promoting various sexual encounters such as prostitution within specific areas of the colony or sex with one's master. Such measures were used to increase populations and develop specific social and moral boundaries of cleanliness. Women were created within knowledges of reproduction and cleanliness with the penal apparatus facilitating this form of circulation by acting as a form of public hygiene — for the social and the individual (Foucault, 1987 [1994]: 184). By framing women within discourses of disorder and disease, penal schemes could promote a productive circulation of women throughout the colony or remove them from its functioning.

Central Penal Management and Scientific Discourses
The circulation of sex and labour was achieved through the assignment of women to domestic service from the onset of transportation. The high rate of transience and transfers between these placements offered little in the way of a consistent knowledge or visibility of the women. Initial efforts to address this problem and identify and systematize convict placements required the master of the household to forward details of their servants and labourers. The growing flows and increases in populations and the inability to effectively regulate assignments made central management and administration a priority for colonial order. Greater emphasis was thus placed on reformatories and gaols for the regulation of all convicts, and not just for those

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26 The first efforts to develop a systematic placement scheme was in 1778 that mandated officers of housekeepers forward the names of women servants to the judge advocates office in Sydney (Robinson, 1988: 222).
sentenced in the colony. In 1821, Governor Macquarie directed the building of the Female Factory at Parramatta which was the first in NSW to only house women.\(^{27}\)

[The] female factory became the means of regulating and controlling the use and disbursement of female convicts and of punishing the recalcitrant or criminal. It was destined to become workhouse and labour bureau, marriage bureau and regulator of morality, gaol and hospital, and at the same time, to relieve the financial burden on the administration of female convicts and their many children. (Salt, 1984: 102)

Rather than employ or assign convict women directly from transportation, women were first sent to the Factory for two months and were then assigned to service throughout the colony. The Factory was also used as a holding cell for those women returning or returned from assignments,\(^{28}\) who absconded, who were abandoned by their husbands,\(^{29}\) or whose labour could not be employed throughout the colony. Through assignment and marriage, women's sex and labour could be better regulated and, reasoned through notions of moral contagion and disease, the prison further facilitated these practices through centralized administration, containment, and dispersal of women.

Willis (2005) argues that penitentiaries, as they developed in nineteenth century Britain, only emerged when the penal apparatus became sufficiently centralized and bureaucratized. This increased the government's capacity to systematize strategies around convict populations and address some of the problems with fragmented and competing local practices. To effectively disperse life and labour through a control of physical and moral disorders, made central organization and confinement instrumental in colonial development. For women, the Parramatta Factory acted as a centralizing and dispersal device, a marriage bureau, a holding house, and a place of punishment. The mixing of these practices and strategies of administration, regulation, and containment facilitated, but also created tensions for colonial management.

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\(^{27}\) The Parramatta Female Factory or the Female Penitentiary was designed to accommodate 3000 women. Prior to this, women were placed in tents or were housed in a separate section of Darlinghurst gaol.

\(^{28}\) Women could be returned to the Factory for a failed assignment, such as for being useless in service, being at large, leaving a husband, or made redundant (Salt, 1984: 101). Women dissatisfied with their assignments could thus create situations for which their masters would return them to the Factory.

\(^{29}\) It was later instituted that for husbands who left their wives at the Factory had to pay a board and lodging fee should they later want to 'retrieve' their wives.
The Containment and Classification of Women

Beiras points out that in the middle of the nineteenth century new knowledges were developing around penal management:

The early Penitentiary Congresses in both Europe and the Americas provided the most emblematic stage for the representation of the new 'scientific, criminological and penological' knowledge. Those discussions not only revealed a new faith in correcting individual pathologies through the penal system but also insisted that those debates had succeeded in founding a whole new body of scientific knowledge. (2005: 168)

For the colony, such emergent discourses were integrated into existing penal schemes to further elaborate on the development of the colony. Within these new knowledge developments more elaborate identifications and classifications were elaborated upon to further develop a penal exercise. For example, the Female Factory introduced one of the earliest systematic classification schemes into the penal colony in NSW. Through classifications, the prison allowed for a sort of eugenics or quarantining of certain physical, moral, and intellectual capacities (Osborne & Rose, 1997) to promote a more healthy circulation of people and populations.

This arrangement was evident in classification schemes within the Female Factory that organized women along their individual capacities and potential for colonial dispersal. Three classes of women were developed where third-class women were considered to be the most corrupt, incorrigible, unruly, and disorderly, were refused assignment or marriage, and were assigned to menial Factory labour. In contrast to third-class categories, first-class women were designated as the most suitable and agreeable for assignment or marriage while second-class women were in a transitional stage between the two categories. Bosworth argues that such classifications and labels, along with concerns over mendacity, madness, and dangerousness, played into the continuing legitimacy of penal sanctions and practice (2000: 277). Through classifications and central administration, the Female Factory was organized in a way that would systematize greater awareness of and access to the women, and to prepare them for life
and labour arrangements. The Female Factory thus tied women to a unifying moral policing so as to prepare them for colonial schemes with the prison organized to accommodate those arrangements outside its confines. The combining effects of the prison and colonial arrangements opened up mutually supporting possibilities for the circulations and regulation of convict women.

Regulating and systematizing women through the prison was not, however, a fluid or unproblematic practice for colonial administration. With the ticket-of-leave scheme, concerns with a certainty of punishment emerging from Britain were in tension with schemes to reward industry and servitude and to promote colonial growth. This saw changes in the scheme that at times ensured a minimum length of government service, then to be ignored or rescinded by rewarding tickets to those before such minimum periods. For the NSW colony, establishing a certainty in punishment and imprisonment of certain deviances also resulted in fewer marriages or cohabitations and limited access to women's bodies, sex, and services: “the women in the Factory were a lamentable check on the growth of the colony” (Brisbane in a letter to Bathurst quoted in Byrne 1993: 40). As Byrne further points out, one effort to address these concerns was to prostitute women out to an Emu Plains agricultural establishment. This stood in tension with emergent knowledges on punishment in which prostitution, as a deviance, was considered to have no positive effect for a moral order of the colonies. The conflicts and inconsistencies that existed between colonial development, convict administration, and penal discourses saw ongoing modifications and reversals in various orders and regulations and created moral, legal, and economic concerns and problems for government.

**Penal Identifications and Colonial Privileges**

Through marriage and assignment, prison classifications, and the ticket-of-leave system, a privileging system to encourage and enforce particular conducts was further

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57 Policing here should not be only understood as those currently organized forces that uphold and maintain 'law and order' and respond to 'crime', but also as the monitoring of particular administrative, bureaucratic, legal, and moral orders.

51 Tickets could be revoked for colonial infringements with a return to government service. Tickets-of-exemption were also issued and were most often used as a form of assignment to work with relatives, but unlike tickets-of-leave, convicts could be neither land-owners or become self-employed. A Certificate of Freedom was available to convicts who had completed their fixed term of a seven or 14 year sentence. Convicts with life sentences were not eligible.
established. Wages were paid and sentences were shortened for women who were loyal and remained posted with an assigned master or for bearing him children. Transferring from one master to another was considered a form of misconduct and prolonged the waiting period of release on one's sentence. Masters could also act as character witnesses to improve the women's chances of obtaining a ticket-of-leave (McCabe, 1999: 295). Furthermore, since women were rarely afforded land or, until 1843, could not own personal property, penal schemes established women within situations of dependence on government, marriage, or assignment. This arrangement not only promoted certain conducts through privileging mechanisms, but also allowed for a greater visibility of and access to the women, despite being regulated to the more private spheres.

With the ticket-of-leave offered for certain behaviours such as a good work ethic or listening to prison directives, women were encouraged to promote their own health and development, as well as that of the colony. The colonial arrangements for convict women established particular models of gratitude, levels of deservedness, and arrangements of obligation. Maintaining a certain visibility of the women and privileging desirable conduct to promote colonial growth and strength was facilitated through the further development of identification and classification schemes in the Female Factory. Early divisions and groupings organized women according to their physical appearance and along categories of 'crime' and sentence. Classifications sorted the old from the young, the well from the infirm, lengthy sentences from short, and the segregation of those with multiple colonial violations and disturbances. As noted above, three classes of women prisoners were established to identify the more deserving or privileged from those considered unruly and disobedient. Such classifications were initially made visible through the use of dress and hair. For instance, all convict women were required to dress in black and third-class women had their heads shaved. Damousi (1997) in her gender analysis of Australian convict women argues that practices of head shaving were attempts to de-feminize women. Where these effects took hold, such practices also served to demarcate women along levels of deservedness that further removed them from a sought freedom; such a visibly further tied women to the penal apparatus. In 1909, clothing for women became a new practice for identifying penal classes. First-class women were organized with attire more suitable for civil life outside the prison while third-class women were given ragged attire further separating them from social life. The
tying of conduct and privilege to the physical appearance of women established their order within the prison and where they stood in relation to the social.

The ticket-of-leave, as it was coupled with assignment, marriage, and the prison, established early penal schemes to organize and regulate women throughout the NSW colony. Privileging and visibly classifying women along their potential to be productively circulated throughout the social established early penal devices to enforce and encourage participation. Where prison administration and classifications set the conditions and formations for release schemes to come, it was with the management of convicts through early penal release schemes prior to the uses of the prison that set the grounds for a very specific penal practices and formations.

The ‘Story’ of Reform

Nineteenth century penitentiaries increasingly subjected convicts to a strictly enforced set of rules and regulations of punishment, including diet, cell size, clothing, and discipline (Willis, 2005: 177). The opening of another section of prison for women in the Darlinghurst gaol in 1841 and the opening of Long Bay in 1909, along with the eventual closure of the Female Factory in 1948, marked a shift from the prison as a central administration bureau towards its use as an instrument of punishment. As a system of punishment, however, the prison acquired other uses for organizing colonial life.

With this shift, penal schemes outside of the prison were gradually linked to emergent knowledges of punishment rather than for the administration of assignment, marriage, or labour. Increasingly, prison classification had an arrangement to prevent the “contamination of hopeful cases by intercourse with depraved characters” (Symonds, 1988: 174) and ‘criminal’ sanctions and prisoner conduct determined the character of early release from prison rather than one’s conduct while living in the colony. For instance, a probation scheme was introduced into penal practices with tickets issued

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32 Women from Parramatta Factory were initially transferred to Darlinghurst, and later to Long Bay reformatory, or were released on assignment from the Parramatta Factory which then became the Convict, Lunatic and Invalid Establishment (Summers, 1975: 285). Prior to this, from about 1888, the main women’s prison was Biloela (Cockatoo Island).
only upon expiry of a probationary period. For women, this was still inked to earlier colonial arrangements to further promote work or marriage.

It has been suggested, as will be seen by the Report, to grant the well behaved women Tickets of Leave after short periods of Probation as a means of affording them an opportunity of marrying or settling in some line of Business. That it will fail in most instances, I have little doubt from the general character and depraved disposition of these Women; But, if it succeeds in a few instances, it will justify the experiment, and those, who prove themselves undeserving the indulgence, will of course be remanded to the Factory House. (Letter from Governor Darling to Sir George Murray, 18th February, 1829 quoted in Colonial Secretary, 1848)

A notion of freedom was increasingly tied to these knowledges that utilized the prison as a corrective and privileging mechanism, and release schemes were adapted to ensure a more productive and moral conduct than to promote colonial development.

A Shift to Punishments and Codes of Civility
In the 1830s penal and colonial management were being widely investigated and reconsidered. In 1838, the Select Committee on Transportation (Molesworth Report) released a report condemning transportation and the assignment system for women. The report was critical of women being received as prostitutes and sexual occupants rather than as domestic servants. The Molesworth Committee also described assignment as a merry go round, a circular journey, and a grueling cycle, and that a convict influence on children in the household had a pernicious effect on the future generations of the colony. According to McKenzie (2003), criticisms made by the Molesworth Committee coincided with the sensibilities of the British bourgeoisie who were becoming critical and reluctant of keeping slaves in the home whose influences were considered to be a form of contaminant.

In the discourse of reform, slaves and convict servants were seen as a troubling presence on the margins of the family. They blurred the boundaries between the home and the world upon which rested the separation of spheres and the construction of respectable society. (McKenzie, 2003: 23)
More substantial divisions were sought to be made between civil and colonial society and, coupled with knowledges on prisoner reform and exacting punishments and with significant advancements already by now made in the development of the colony, transportation and indentured servitude were increasingly put into disrepute.

Assignment of women throughout the colony stood in tension against the moral and civil ordering advanced by imperial rule, particularly as it was attached to social cleanliness and order. Transportation was also argued to be a lottery, and punishment was determined by the luck of a convict's assignment or by the skills possessed rather than the severity of the 'crime' committed. Orders from Britain to the governors of NSW used an argument of government expenditures as a way to denounce transportation as an ineffective and costly control, particularly advanced by figures such as Bentham who was trying to implement his project of the Panopticon. Two years later in 1840, transportation ended in NSW and the assignment of women convicts was also mostly abandoned. These changes reflected a penal transformation that increasingly linked convicts to categories of 'crime' and levels of harm and established the prison as a central administration of punishment.

The Convict Mark and Penal (In)Visibilities

With the shift of the prison as a central bureau for assignment and marriage to a system of punishment, material dependence and survival also increasingly shifted onto the state (Davies & Cook 1999: 66). To minimize these effects, efforts were made to establish more of a link between convict women and their social and private worlds. For example, The Act for the Maintenance for Deserted Wives and Children 1849 NSW allowed women to apply for weekly or monthly maintenance payments from their husbands. Another strategy was to make 'freedom from' prison the overriding concern for convicts, rather than provisions of material rewards or labour. Through the earlier designs of a privileging system, a notion of earning and losing freedom was refining its character.

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53 The transportation of convicts to Australia wide ended in 1868 (Daniels, 1998). The assignment of women in NSW was reinstated for a few more years in 1842 to accommodate demands in the domestic sphere. This was also supported by the women convicts who complained they were sent to Australia as punishment and not for punishment.
With a renewed and strict focus on linking convict management with 'crime and punishment' orientations, release schemes were developing to further retain a certain knowing of the 'criminal' that had been lost with such shifts in colonial management. A mark system, introduced in Van Diemen’s Land by Alexander Maconochie, acted as a merit system that encouraged good conduct where prisoners could work towards their eventual release from prison. Advocating for a more visible instrument with the least amount of government management, Maconochie maintained that the ticket holder was “an object of constant suspicion, impeding efforts to settle back into society, and that the abolition of the system of ticket-of-leave in the colonies would permit a reduction in the police presence there” (White, 1976: 78). It was also advocated by Maconochie that convicts be branded so that the mark remained invisible to the public eye, but visible upon inspection. The mark system earned prisoners time out of prison for good conduct and diligent work and emerged in response to the criticism of the ticket-of-leave system that was considered to keep individuals slaves of the state rather than ‘free’ citizens.

Although the mark scheme was never initiated in NSW, it reflects part of a shift in thought and practice to establish a more effective privileging system, tied to a certain freedom, to promote prisoner visibility while shifting dependencies and a convict management that was being abandoned by government. These arrangements are also what gave penalty a more invisible effect as it made its practices less accessible with government provisions, while maintaining a certain visibility of and access to convict populations throughout the colony. As such, a more fluid relationship was developing between penal mechanisms and public and private domains.

Early Release and Shifting Dependencies
The New South Wales Prisons Act 1840 established the beginning of a formal basis for a coordinated social integration and release scheme to grow out of the gaols (Hayes, 1991: 34). It is often argued and debated that the mark system, introduced by Alexander Maconochie in Van Diemen’s Land, was one of the earliest precursors to parole in Australia and elsewhere (see White, 1976).

Maconochie further noted that “the ticket-of-leave, however secured, must always be a very dangerous weapon to the criminal; and [who] is expensive to the state to maintain ... Necessarily confining released Criminals to certain Colonies, it will retain to those Colonies that Penal Character which it is much to be desired that they should lose. (Maconochie, Dispatch No. 28 Gipps to Russell Feb 28, 1940 quoted in White, 1976: 77)
The development of a licence scheme made those on release subject to reporting to police or an aftercare agency such as the Prisoners Aid Association, and a reconviction resulted in staying in prison until sentence expiry. Chan (1990) notes that other incentives were developed through the Criminal Law Amendment Act 1883 that offered a remission of sentence for good conduct. Privileging mechanisms were further endorsed in 1886 with a license scheme that replaced the ticket-of-leave and that, minus remissions, made prisoners eligible for early release from prison from within six to 18 months of their sentence. These strategies further allowed a circulation of penal populations and, through a notion of freedom, was shifting economic dependence from the state onto the social. This simultaneously embedded a privileging system in corrective practices that sought to establish normal, desirable, or agreeable conduct.

During the later part of the nineteenth century and twentieth century various developments were occurring around penality in NSW. The collection of statistics, for instance, were generated around three general areas of penal discourses: “figures relating to the prison population; those indicating rates of crime; and those which suggested the phenomenon of recidivism or repeated, professional criminality” (Harding, 1988: 593). The Comptroller General of prisons, Frederick Neitenstein, following recommendations made by the Gladstone Report (1895) in Britain, further elaborated various classification schemes such as making distinctions between types of ‘criminals’, separating youth from adults, and identifying those considered ‘mentally deranged’ or diseased.

Neitenstein also implemented various penal reforms such as trade and agricultural training for prisoners, special programs for categories of prisoners such as women and youth, and elaborated aftercare programs. There were also shifts in the use of language where a title of ‘convict’ was replaced with that of ‘prisoner’. The development of a full national fingerprinting system was also endorsed by Neitenstein to promote the further identification of ‘criminals’.

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16 Neitenstein was Comptroller General of Prisons in NSW from 1896–1909; 22 years after the position was developed in 1874.
17 According to Dobash, Dobash & Gutteridge (1986), British reformers were emphasizing classification, surveillance, and discipline in the mid 19th century.
18 A fingerprinting system has its origins in the turn of the 20th century in both Great Britain and the United States. It was introduced into the NSW prison system in 1901, but was first established in Australia in 1894 (Ramsland, 1996: 184).
While the coupling of incentives with early release schemes was maintained, emphasis was increasingly placed on public and private spheres, as opposed to the state, as the provisional body of material gain or support. Following a move towards moral civility and expert penal knowledges and with penality organized more around the prison, classifications and identifications were also developing less around colonial development and more within the penal apparatus itself. Negotiated more strictly within a context of the prison, penalty also saw to the strengthening of ties between individuals and ‘criminal’ titles and the linking of social identifications and characteristics with penal knowledges and classifications; thus further segmenting off groups and categories of people from the population at large. With an end to transportation and a shift towards an ethos of civility and industry, prisoner life was negotiated within terms of ‘freedom from’ the prison, thus further shifting emphasis from the state to more of a social–penal character.

**Penal Volunteerism and Aftercare**

A certain independence from convict management relieved the state from a responsibility that was initially achieved through the combining effects of assignment and the ticket-of-leave scheme. With release schemes now negotiated from prison, women prisoners’ disorder and contaminating influences were increasingly emerging as a problem for both the social and prison management. So where the prison primarily received women in and out of assignment and offered skills or tickets for those promising few who could secure marriage or employment, it eventually became a central and necessary aspect of reforming women.

> Women required different treatment in the areas of food, discipline and work because of their susceptibility to emotional instability and great nervous depression and tendency to break out into fits of great ungovernable hysteria for no apparent reason. (Neitenstein quoted in Ramsland, 1996: 156)

With emergent tensions and shifts in colonial life and penal practices, the penal apparatus was increasingly linked to various aspects of the women’s social lives. With the state no longer tending to colonial development through convict assignment, this created a void in financial and material support for those leaving the prison. This
minimized and limited the productive aspects of convict management and the capacity of prisoners to survive without state labour schemes. Volunteerism or aftercare thus emerged in the late 19th and early 20th centuries to address a shift away from state dependence and to tend to the basic commodities of food, shelter, and work. In effect, aftercare was developed to address the gap such shift in penal practices created, but also maintained the continuity of penal practices to complement or enhance corrective measures upon prison release. The aftercare approach of support and assistance located individuals within very discrete and specific penal knowledges within the social and made penal ties less visible. By attending to shifting rationalities from colonial development towards a free labour economy and bourgeois civility and morality, aftercare emphasized returning prisoners to ‘virtuous’ and ‘honest’ modes of living. This further localized women within private spheres of obligation and dependence within the family. Aftercare was thus developed in a way that sought to maintain continuity between penal practices and the social as well as to ensure a certain social respectability and integration. With aftercare mutually informed by and informing penal schemes, it built knowledge of prison release around social capacities and abilities for individual reform that largely shape release schemes today.

The Development of Aftercare in NSW

Release from prison at this time was increasingly linked to probationary and conditional practices originating from the ticket-of-leave system and sentence remissions for good behaviour. With developments in the penal sciences, a notion of prisoner reform was emerging that was increasingly linked to gradations of penal release. Developing upon earlier initiatives, for example, three stages of prison release were developed that saw women cascade first through the prison, towards developing in-prison skills, and finally to a conditional release. Although a similar scheme existed in early classifications in the Female Factory, it was initially organized around the development, order, and sanitation of the colonies. Here, gradual release promoted self-reform and correction while operating in more specialized social networks of aftercare (see also Simon, 1993).

Primarily achieved through the ongoing involvement of religious and benevolent based groups, prison aftercare largely emerged in the latter part of the eighteenth century when the prison became a central feature in convict regulation. In NSW, these included groups such as the Sisters of Charity developed in 1838, the Prisoner’s Aid Association.
established in NSW in 1874, the Society of Saint Vincent de Paul and Salvation Army both established in Australia in 1881, and individual chaplains. Such groups and individuals sought to address crime and prisoner reform through moral and material provisions.

By the turn of the 19th century [aftercare] was operating according to a comprehensive plan, taking care of the drifting and homeless, the hungry, the criminal, the poorest, the drunkard, the unemployed, the neglected, the sick and the aged — in fact every phase of suffering, sinning and sinned against humanity. (Ramsland, 1996: 280)

Established as a part a gradual release program, it was to this end that release schemes and aftercare complemented penal practice by promoting and alleviating the effects of the prison as an instrument of containment and punishment, as well as supporting reformative ideals and integration schemes. The idea of aftercare was held as the association between prison and ‘free society’ and was established as an aid mechanism with a particular supportive function. Aftercare agencies were not only limited to affairs of prisoners after release, but also established relations and contact within the prison. As Rafter argues, this approach allowed for a “symbiotic alliance of mutual aid” (1983: 297) that also brought the social aspects of life and labour into the prison. By echoing civility and industry and establishing a credo of non-discriminating support, aftercare was positioned as both an in–prison service and receiver of reforming prisoners. In offering basic services, aftercare worked concomitantly with prison administration to establish a more consistent network of corrective management and link between social and penal trends.

An example of this ‘symbiotic alliance’ is how aftercare both reinforced and contributed to the large scale penal knowledge production emerging around this time. With a focus on statistical trends of ‘criminal’ categories and patterns collected through ‘criminal’ identification systems, aftercare began to specialized in various emergent categories of prisoners such as ‘inebriates’ or ‘habitual’ or ‘repeat criminals’. Aftercare projects also

39 The Discharged Prisoners’ Aid Society, later renamed as the Prisoners’ Aid Society in 1901, was the “first coordinated body associated with the NSW prison system to provide welfare and post-release services in a way which enlisted community support for both male and female prisoners” (Hayes, 1991: 16).
helped to further build an information base of those on release in the various aspects of life and labour to inform penal knowledge by collating information on all prisoners who applied for assistance. This included details on the age of applicant, marital status, address, offence, sentence and date of conviction, religion, place of committal, number of previous convictions, conduct in gaol, date of discharge and from which gaol, occupation and former employer, assistance granted on release, and any gratuities given (Discharged Prisoners' Aid Act 1862). As Hudson argues, “control is the effect of a continuous process of inspection — to know as much as possible” (2002: 255).

Garland (1981) argues it was the linking of various systems and networks of support with those supervisory and corrective measures associated with systems of punishment that brought social-welfare into existence. He further argues that these social and penal arrangements established entire penal-welfare complexes that weaved in and out of judicial and social apparatuses to which punishments were connected. As Nye notes, “this epistemologico-juridical matrix provided the basis and justification for the entire constellation of entities engaged in implementing the technology of punishment” (1978: 500). More specifically, with the establishment of aftercare, the penal apparatus was given a certain capacity to attract, coerce, and influence individuals both within the prison and throughout the social body with multiple integration strategies and networks informing and informed by its knowledges.

Although aligned with penal thought, aftercare also established itself as an independent body while carrying out those aspects of life and labour previously overseen by the state. By offering services and support to anyone who sought assistance, aftercare was establishing itself within relations of confidence with prisoners. “It is a work of Charity in its highest sense which can be better carried on by a society such as ours than through any state office ... in as much as it requires to give vitality to its efforts that it should win the entire confidence with the class it meant to help (Hayes, 1991: 14 quoting Prisoner's Aid Association of NSW report, 1882). Operating within a benevolent and non-state capacity, aftercare established itself as the conduit of prisoner reform and salvation from the deprivations of both the prison and social. Aftercare was to guide souls through direction, assistance, and support, as well as to offer protection from the hardships of the world outside. Aftercare could thus impress civil society upon the prisoner on release who sought its comforts and support.
In 1901, the NSW Association for Assisting Discharged Prisoners was established as the first coordinated aftercare body to assist with discharged prisoners. These more organized and coordinated aftercare arrangements also coincided with bourgeois malaise around transportation and bonded labour and were offered as a mechanism for the moral policing of transgressions and physical deprivation and disorder. Membership with a benevolent society thus reflected a social moral desire to address the ‘convict’ problem and promote bourgeois respectability.

Embedded in emergent discourses around contamination and disorder, aftercare was offered as a way to address bourgeois anxieties that developed around the contaminating influences of slave and bonded labour on the family. McKenzie (2003) argues that just prior to the end of transportation, imperial culture was stressing personal respectability, domestic morality and a free labour economy. As discussed above, slavery and bonded labour was thus especially threatening for an emerging bourgeois economy and culture. Acting as a moral enterprise that reflected an increasing bourgeois civil and moral sentiment, penal release was transferred to an aftercare system that could combine and address bourgeois culture, colonial industry, and material need.

In 1870, for example, the Discharged Prisoners’ Aid Society emerged in NSW was primarily made up of judges and lawyers and other distinct segments of bourgeois society. Despite ties with members of the judiciary, legal representation was not an aspect of its exercise, but rather on the protection of society by addressing ‘social hardship’ through ‘employment’, ‘skills, support’, and ‘role modeling’. The Association also favoured the more ‘deserving’ cases that showed more reformative and integrative potential. Focus on promoting respectability and integration not only coincided with bourgeois sentiment, but also brought practice more in line with those individualizing liberal projects with an emphasis on self-regulation. Aftercare was a means to stabilize life on the outside by promoting material and social welfare and offering social guidance in line with economic and cultural ends. With a focus on the ‘deserving’ and by offering support and guidance, aftercare largely shaped formal penal release schemes to come. As discussed in Chapter IV, however, penal release practices and aftercare bodies did not emerge in complete agreement and at times competed between coercive and supportive arrangements. Where aftercare reinforced penal mechanisms, it also shaped penal
thought in its alignment with bourgeois sentiment to increase civility and respectability. For women, this meant investing life outside prison into the folds of family and moral reformation.

Women and Aftercare

Aftercare initiatives for women, as noted above, included the Sisters of Charity developed in 1838 and the Institute of the Sisters of the Good Samaritan developed in 1857 who brought religious instruction to the Parramatta Female Factory and the Darlinghurst Gaol. The Salvation Army Glebe Rescue Home was made as a shelter for prostitutes or women out of gaol in the 1890s. In 1883, the Prisoners’ Aid Association was extended to working with women prisoners and in 1901 a sub-committee of women of the Prisoners’ Aid Society fashioned the Ladies Committee. For women, these aftercare initiatives remained focused on strengthening marriage, family, and childrearing. Women without the adequate ‘cover’ of a man, continued to require some form of material and moral support (Heffernan, 2003: 50). The ability of women to manage life outside the prison was thus dependent on their moral reformation through certain material provisions and the reinforcement of familial bonds.

As discussed in the previous section, imperial and bourgeois anxieties were developing around the contaminating influences of bonded labour and convict assignment, including the ‘threat’ of racial ‘pollution’. This concern with moral purity within the family was an ongoing imperial concern in the eighteenth and nineteenth centuries.

To create a white bourgeois community, it was necessary to bring up a new generation with the manners and morals appropriate to this identity. The family, therefore, lay at the heart of both the conception and the practice of colonisation. Women, particularly mothers, stood as the protectors of national character, the sustainers of purity and the preservers of boundaries. When they failed in this duty they were presented as the gateway to class and racial contagion. (McKenzie, 2003: 8)

McKenzie further argues that like slaves, convict women violated social norms, but unlike Aboriginal women who could be dislocated or visibly regulated (i.e. racialized)
within more strict geographic confines (see also Chapter I), convict women were a 'threat from within' (19). Aftercare for women thus emerged as means to contain such a threat and to localize it through a discourse of reform and respectability that promoted dependence.

Women from prison became the client group for the bourgeoning women in civil society (Rafter, 1983, 1990). The Ladies Committee, for example, sought to "develop self-respect amongst the women by providing clothing so the women could take pride in appearance and to offer advice, assistance, friendship, and resources" (Ladies Committee of the Prisoners' Aid Association, 1953). Efforts were focused on providing a gateway to the social by finding women work, residence, and opening family lines of contact. According to the minutes and reports, the central aspect of practice of the Ladies Committee was to find women placement and shelter, with a primary concern for the release of women into the care of parents or husbands. Aftercare for women was particularly focused on release schemes that could organize women within the more private dependencies and family commitments outside the prison.

Working within a premise that women needed greater protection, aftercare sought to rescue as well as reform, to save as well as correct. This is reflected in the Ladies Committee's interest in bestowing a social morality amongst women and throughout civil society through legislative matters such as by making the age of sexual consent to 16 in the Crime (Girls Protection) Act 1910. They also supported the Inebriates Act 1907 to ensure 'drunkards' could heal from their affliction by being separated from the 'common criminals' and approved of prohibition schemes to close pubs in 1925. There were also certain feminist commitments within the Ladies Committee that saw the development of coalitions of support with other women's groups, such as with the Women's League, but nonetheless defining clear boundaries between their moral regulative function from emancipist projects. Given their broad interests in a social moral order, conflicts and tensions also arose between the Ladies Committee, prison administration, and the Prisoners' Aid Society when practices fell outside the scope of their protective function. In 1909, the Ladies Committee was denied permission by the prison and the Prisoners' Aid Society to conduct interviews with inebriates to better understand their ailment. Such practices were considered to interfere with the Comptroller General's work and were beyond the constitution of the Association.
Similarly, although allowed to conduct weekly readings and craft groups in the prison, the Ladies Committee was denied access to the prison to conduct monthly meetings with the women. Aftercare work was thus encouraged when it did not negotiate the women outside of their social–penal commitments and where it facilitated penal practices or alleviated penal responsibility.

The introduction of aftercare agencies as overseers in the lives of women prisoners established a link between the penal apparatus and the family, relationships, work, home life, leisure, and other varying aspects of the social. The provisional and protective character of aftercare also facilitated a particular support and awareness of the women that supported bourgeois sentiment. Aftercare thus fulfilled attempts to reinsert women throughout the social in a way that facilitated them in fulfilling moral and corrective obligations and commitments without implicating the state in such a realization. Aftercare agencies addressed social hardship through a central tenant of prisoner reform, and operated within those corrective mechanisms and penal knowledges that early colonial arrangements and release schemes had previously established throughout the colony.

**Conclusion**

By looking at colonial release schemes, it becomes more apparent that they played a formative role in shaping and informing a penal exercise. More than just a tail end service, release schemes were central in shaping and circulating penal populations and knowledge. Assisted by identification systems and classifications, release schemes were also adapted to accommodate shifts in penal and social knowledge and practice. This also reflects the significance of how penal knowledges are more intimately woven into and shaped by the social for particular problem populations and how penal divisions entrench social aspects of life into a corrective function. For example, by maintaining aftercare both apart from and embedded in prison discourse and penal practice, the apparatus itself developed a certain invisibility throughout the colony that could facilitate a circulation of penal knowledge, without a reliance on state support. That is, by shifting dependencies from the penal apparatus and colonial government onto an

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4 This saw the resignation of the Ladies Committee's president, July 20th, 1909.
aftercare function, penality maintained a certain relation with and awareness of penal population within the social.

In the colony, penality was concerned with practices of release prior to and eventually in the wake of the prison to maintain a certain continuity and mutually conditioning relationship between penal and social practices. For women, this was reflected in organizing life and labour along sex and gender arrangements in the colony. Penal release schemes and the ordering of women not only dispersed penal thought and practice to new domains, but also promoted insight into and access to their lives. Systems of identification were also being elaborated to establish further categories for intervention as different problems for penality emerged. Foucault (1977 [1995]) argues that prison reform has been a necessary aspect of penality since its inception as an ongoing effect of the tensions and competing arrangements that exist between social and penal fields. It is not only through reforms the penality maintains a decisive character, but also with release schemes that facilitate links with the social that inform a penal exercise.

Despite penal release schemes emerging well before the prison was used as a central institution of punishment, such schemes have eventually come to be understood as a continuum from prison and framed as a necessary aspect of prison release, such as current legislated and mandated bodies of probation and parole; yet another specialized effect of ongoing reforms that build upon and recreate categories for detection, classification, segregation, normalization, removal, and elimination. Release schemes, as developed over time, established continuity between penalty and the social thereby making correction a more ubiquitous and common or ‘natural’ formation of the social.
Chapter IV

Securing Community: The Art of Prison Release and the Women Problem

True compassion is more than flinging a coin at a beggar; it comes to see that an edifice which produces beggars needs restructuring.

Martin Luther King, Jr.

[Reforms are] distributed in homogenous circuits capable of operating everywhere, in a continuous way, down to the finest grain of the social body.

Foucault, 1977 [1995]: 80

R eintegration, transition, reentry, resettlement, adaptation; these terms have recently emerged in penal language to describe the procedures, processes, and experiences encountered by those who are released from prison. Within a corrective field, they accentuate a point of unrest and uncertainty, as well as a form of re-familiarization. Within the two distinct yet interrelated and mutually informing dimensions of the prison and social, a penal apparatus makes use of a transitional language as it shifts between coercive and facilitative discourses, interventions, and programs and to address broader disciplinary and bio-political concerns. Through penal release schemes, the penal apparatus not only ensures a certain ordering of groups and individuals outside the prison confines, but also maintains a less visible and more adaptable form that shifts in and out of a social functioning.

With the general emergence of the disciplines to increase the utility of individuals, practices were also organizing government and politics around space, populations, and security:

discipline structures a space and addresses the essential problem of a hierarchical and functional distribution of elements, and security will try to plan a milieu in terms of events or series of events or possible elements of series that will have to be regulated within a multivalent and transformable framework. (Foucault, 2007: 20)
The apparatus, as a transformable framework, operates at the level of bio-politics to ensure a more efficient circulation of populations and through disciplinary power, as an operant of a norm, to enhance bio-political functions. Through productive and restrictive arrangements, the penal apparatus aligns itself with overall social and security apparatuses and maintains a privileged place in informing a discourse for those who fall outside of positive social conducts and norms.

For this Chapter, I look at how penal release schemes, emerging in part in the form of aftercare, saw social agents and networks operating interdependently with the penal apparatus in a benevolent and supportive capacity to facilitate the circulation of penal knowledge and maintain links between the prisoner and social. I argue that within this interdependent arrangement, penal knowledges can more easily shift in and out of social fields and make its operations more fluid and less visible. Similarly, with knowledges shifting between penal and social thought, despite emergent and ongoing reforms, criticisms, and tensions, a networked and more hidden character of penality maintains a privileged position for circulating a certain awareness of its populations.

In NSW, where early penal release practices were supported through a ticket-of-leave scheme and articulated in terms of colonial health and development, release was now beginning to develop more within frames of prison gradations, privileging systems, and interventions. Similar to those forming practices of colonial development, the social remained the informing grounds for promoting health, family, and employment, with penal knowledges shaping and limiting spaces to ensure penal populations circulate more productively through these fields. These measures have also been described in terms of a hybridization of penal practice merging with other social arrangements of space, law, state, labour, family, and so forth (e.g. O'Malley, 1999; Hannah-Moffat, 2005; Holmes, 2005). Where corrective measures seek to direct, alleviate, exact, and facilitate such a transition, it is the social that informs, supports, and provides some of the more necessary arrangements.

Shifts and reforms in the penal field also reflect broader security, economic, and political concerns that create tensions for the way penality circulates knowledge and populations. Tensions, for example, exist between ensuring community safety and promoting
reintegration. Other tensions exist between harm reduction approaches in crime prevention and zero tolerance. Although penal discourses produce and exist within competing arrangements, it is by shifting and competing modalities that the penal apparatus makes its operations possible. By shifting within and between penal and social frameworks, corrective applications can disappear, modify, or adapt to resurface or mold into other strategies and domains of life. It is not so much the prison or its reforms that force change, although they have defining and forming effects, but it is rather the fluid and ubiquitous character of the apparatus or dispositif that shapes penality through networks and systems of thought and practice that operate within and between the penal and social fields and varying rationalities.

Each apparatus has its way of structuring light, the way in which it falls, blurs and disperses, distributing the visible and the invisible, giving birth to objects which are dependent on it for their existence, and causing them to disappear. (Deleuze, 1992b: 160)

Adaptations and modifications occur through the tensions and conflicts that arise in the field to which the dispositif responds and makes parts of its exercise visible or invisible; available or unavailable; productive or restrictive.

For women, the social and penal apparatus shape and circulate knowledges informed by gendered, ‘criminal’, and other categories and divisions. While knowledge of women’s release in NSW is currently embedded in both their gendered and ‘criminal’ otherness, at the end of transportation overall penal knowledges and strategies were largely levied at prison populations as a whole. That is, rather than emerging as a specific penal category, women were managed within the more general penal practices and security classifications, while specific knowledges of women in prison were generated more from social gender constructs. This was in part an effect of non–specific penal knowledges developed around women, but also to promote a more consistent regulation of penal populations. Such penal approaches had the effect of broadening its scope to diverse segments of the population who were managed under systematized, generic, and far-reaching penal operations.
As a result of ongoing reforms and conflicts in the field, women eventually emerged as a special category with distinctive dispositions, identities, and penal needs. While I further discuss the more discursive and subjective practices tied to such a framing of women in Chapters V and VI, this type of characterizing has lent itself to the more individualized knowledges that shape penal thought and practice today where women are contemplated within both social and penal understandings and practices. For this chapter, I first briefly discuss the changes to penal release schemes in NSW that has given penalty its current form and elaborate on the variety of practices and discourses that have accompanied women in the field.

Expanding Penal Aftercare

Following the years known as the ‘Neitenstein reforms’ (1896–1909; see Chapter III), remissions of sentence were still awarded for good behaviour and industry and the release on licence scheme offered conditional forms of early release well into the 1980s.41 There were also increasing developments in the accumulation of statistical patterns and trends in the field, along with the ongoing collection and creation of new demographics of penal populations. These included sex, age, race, legal status, sentence length, type of ‘offence’, ‘criminal’ history, socio-economic status, education, and the like. Emergent penal knowledges were thus further developing around identifications and classifications to better know penal populations. The emergence of aftercare to regulate prisoner release marked a move away from a consideration of ‘crime’ within categories of disease and contagion to social identifications made in relation to shifting dependencies from the state to other social arenas that could address cultural, political and economic concerns. No longer only tied to categories of contagion, disease, or moral disorder, penal knowledges of women were circulating more around enhancing stability, employment, housing, health, and family. Although still divided along sex and gender categories and social and economic capacities, women were also invested in a more general and unifying application of penal knowledge.

41 This was repealed by the Prisoners (Serious Offenders Review Board) Amendment Act 1989. After a system of parole was introduced, a release on licence was primarily used for those sentenced to life imprisonment or for those detained at the Governor’s pleasure (Simpson, 1999: 7). For a more detailed analysis of the legislative changes in NSW release schemes see Chan (1990, 1992).
As discussed in Chapter III, with shifts in penal knowledge, aftercare was established to help reduce prisoner dependencies from state to the social by making provisional arrangements for employment, shelter, food, and clothing. Throughout the early and mid twentieth century, aftercare developed more coordinated efforts with the Prisons Department while maintaining an independent character to act on behalf of the prisoners themselves regardless of ‘creed or status’ and for the ‘restoration of their rights as citizens’. Within such discourses, the necessity of aftercare was reasoned as part of a re-socializing process that could address the hardships and effects associated with imprisonment such as disassociation and loss of freedom, as well as address the alienation from family and community – “the persons concerned would be saved from the degradation and taint of gaol as well as the subsequent hardship which so often follows a period of incarceration (NSW Prisoner’s Aid Association, 1905: 7). The prison itself acted as a certain impediment to productive modes of life that severed social, familial, and economic needs, despite its utility in exacting punishments and containing threats.

With prisoners still accompanied by early and conditional release schemes such as remissions and the licence, as I discuss below, other penal release strategies such as parole were eventually introduced. It was informal aftercare initiatives, however, that set the tone and foundation for these formalized social services and release schemes that eventually emerged from the prison itself. “As the State recognized its responsibility for the social readjustment of the prison, so too did professional services within the penal institution develop (Australian Prison Aftercare Council, 1962: 26). Tied to corrective and punitive technologies and knowledge, formalized penal release bodies nonetheless remained limited in their capacity to effectively manage penal populations which kept volunteer organization an important part of penal strategies as they acted at ‘arms length’ from the state. Within these schemes, women were not a centralizing concern for penal management and aftercare made use of gendered constructs found within the social in their understanding of women, while applying a more general penal knowledge to both women and men.

The Emergence of Parole
As a more coordinated body that addressed social hardship, the work of aftercare volunteers was increasingly recognized as an essential component of prisoner release.
The Prisoner's Aid Association, for example, expanded its branches throughout NSW (as elsewhere in Australia) and in 1920 there were 20 branches. As the primary, penal aftercare group, the Association's work, however, slowed during the period of the Second World War opening a space for other penal operations to emerge. "The Association did not have the available resources, nor expertise to provide within its own organization the services that should have been available when the Government in 1951 decided to proceed with the more extensive use of conditional liberty" (Hayes, 1991: 19). Adapted from both local aftercare initiatives and overseas knowledges emerging from the United States and the United Kingdom, the NSW Parole Service was established in 1951 as a social defense agency by way of supervision and social work support for those on release.42 The parole service offered a formalized system of social aftercare, with parole orders reflecting similar conditions and privileges initially developed with the ticket-of-leave scheme such as early release for good conduct, directing prisoners where to live, and with whom to associate (see Appendix V for an overview of the regulations). Parole was initially reserved for those considered remediable or for anyone willing to avail themselves of the penal service, but eventually emerged with both an aftercare and supervisory function to direct prisoners conditionally mandated to its office. Within a social work capacity, the parole service also took on some of the services earlier established with the work of prisoner aid volunteers by addressing the alienation experienced by prisoners upon release. With social work operating as a social or quasi science, parole sought to maintain an 'objective' assistance with and supervision of life outside prison.

Similar to aftercare, Parole services were emerging to bridge the gap between prison and 'free community' and further develop knowledges of prisoners, the social, and the 'prison community'. For example, a non-discriminatory approach was an effective strategy to consistently engage penal populations, and yet maintain penal and corrective links: "the role of the parole officer was to make parolees self-reliant and adequate, recognize individual potential, maintain trust, recognize parolees as a person, develop acceptance, and keep community interests in mind" (Hayes, 1976: 68; see also Sephton, 1976: 42–

42 Francis D. Hayes and Ian McAuley were the first parole officers in NSW, each holding a degree in social work. Parole came under the Prisons Act 1952, repealing the Prisons Act 1899, the Prisoners Detention Act 1908, and the Habitual Criminals Act 1905. Parole and Probation were amalgamated in 1967 to become the NSW Probation and Parole Services. In 1970 the name of the Department of Prisons was changed to the Department of Corrective Services.
43). Through mandated supervision and a social work component, the parole officer was organized to supervise and support, share with the clients' difficulties and offer counsel and assistance on personal problems of adjustment (Keller, 1973: 1). Acting as a certain medium between the social and penal, in its effects parole agents operated as knowledge brokers, expert advisors, and security managers (Ericson, 1994).

Coordinated Aftercare Efforts

It was also in 1951 that the Civil Rehabilitation Committee was established and brought together various and largely uncoordinated aftercare agencies and volunteers into line with the newly formed parole function. Where parole had absorbed some of the more social support aspects of aftercare into its operations, volunteer agencies were to contribute to a parole function by providing more of the immediate, practical, or emergency assistance. Having only recently reinvigorated its resources along with a dependence on correctional funding, prisoner aid volunteers aligned themselves with penal practice to avoid overlap and competing with the legitimacy of the newly formed Parole service. As stated at an Aftercare Council conference: “it is better to use the penal system of a country to prevent the likelihood of future crimes” (Australian Prison Aftercare Council, 1965b: 2). As part of a penal reasoning, social and private aspects of life were now considered to be contributing to social dissolve resulting in further 'crime'. This reflected a sentiment of developing more consistent and involved penal knowledges now based on actuarial and 'reliable' knowledges – “The extension of this service from prison to the community has been in keeping with the gradual development on constructive theories of penal treatment which have recognized that custody alone will not induce social re-adjustment” (Hayes, 1959: 20). A shift in volunteer agencies to parole to take on part of the administering and circulating of prisoner industry and livelihood also marked a mode of reasoning in protecting both prisoner and 'community' from social harm. This was done by addressing the destabilizing effects of the prison, reducing social hardship, and increasing individual utility and industry.

43 The Civil Rehabilitation Committee representatives consisted of chaplains and church officials, trades and labour representatives, social and prison welfare groups such as the Prisoners' Aid Association, St Vincent de Paul Societies, and the Howard Prison Reform League, as well as prison department representatives, including parole officers. Other aftercare groups that emerged or that currently exist include Children of Prisoners Support Organizations, Victim Support Committees, Prison Fellowships Organisations for the Care and Resettlement of Offenders, and the Community Restorative Center (see Baldry, 1994: 303).
In becoming involved in prisoners’ everyday and routine affairs, volunteers had access to and information of the personal worlds of those on release, while remaining more or less aligned with overall corrective projects. Attempts to establish agreements between parole and volunteers and avoid inconsistencies in practice had the effect of contributing to a broader, unified, and consistent application of penal knowledge. Jagger suggests that the suppression of contradictions and conflicts and reconstructing them as more coherent and smooth projects serves to promote the sovereignty of a particular knowledge (1997: 446). Existing within a financial vulnerability and a need to develop legitimate rationalities, volunteer agencies were increasingly developing more in line with penal knowledge and practice.

Efforts to coordinate formal release schemes with volunteer efforts not only made penal practice more consistent, but helped create a more expansive application that allowed the penal apparatus to shift in and out of social domains. Comprised of social welfare groups, aftercare volunteers worked alongside but independently of parole services to ‘fill gaps’ and address needs and areas that could not be reached by the penal apparatus. “The Civil Rehabilitation Committees, because of the voluntary nature of their work, are in an ideal position to undertake a campaign that would involve more organizations and more people in prison rehabilitation” (Armstrong, 1963: 15). Given the independent and unofficial standing from penality, volunteers established a rapport with those on release by providing material assistance, establishing social ties, and providing accommodation, money, counselling, and support. As in colonial times, this alignment allowed volunteers to address those aspects of life and labour that an authoritative or penal body did not attend to, particularly by establishing aftercare within those spaces no longer state supported. Part of the responsibility for members of the Civil Rehabilitation Committee, for instance, was to hold families together and resolve personal domestic problems. Aftercare volunteers were also involved in the formation of self-help groups among prisoners, family, and relatives (Dalziel, Dummett & Turvey, 1975: 5). These efforts reached into the personal worlds of the prisoner that could not be attended to by parole for a variety of reasons such as a lack of time, ‘heavy caseloads’, limited flexibility in ‘consorting’ with prisoners and their families, or the authoritarian nature of a penal and punitive framework (Australian Crime Prevention Council and Aftercare, 1969: 65).
Parole and volunteerism, now both shaping aftercare projects, were arranged so as to inform each other's practices in order to address those aspects of 'community' life considered vital for (re)integration and social protection. Extended to those areas where penal knowledges did not significantly develop, aftercare was also set up in such a way that gave it access to the social and more personal worlds of prisoners. Penal knowledges were thus strengthened and supported through release schemes and aftercare that continued to develop a detailed knowing of penal populations.

A Social Circulation of Penal Populations

With penal thought and practice reproduced within the social through release schemes and aftercare, a productive system of correction could be exercised at a variety of points in a "complex relation of exteriority and interiority" with the social (Foucault, 1997b: 75). Where the prison could centralize and systematize knowledge through penal identifications and classifications, the decentralizing effects of aftercare allowed for more elaborate and sophisticated systems of social identification and contact.\(^4\) Using knowledges and identifications collected from multitudinous arenas of life, the penal apparatus could operate more efficiently and with greater access to individual bodies and local practices (McWhorter, 2005: 86). Release schemes and aftercare addressed specific spaces organized by penal knowledge and promoted a more productive circulation of penal populations.

For women, identifications and knowledge were developing around both social characteristics such as employability, place of birth, number and care of children, educational history, previous occupations, 'criminal' history, and length of sentence. As noted above, although physical and social divisions between women and men were maintained, a more general penal application was also used, irrespective of sex, to regulate penal populations en masse. This often resulted in a certain neglect or oversight of the penal regulation of women. For instance, the work of Civil Rehabilitation Committee was only extended to men.\(^5\) The regulation of penal populations as a collective was an effect of bio-political measures to broadly calculate and organize life in

\(^4\) Almost since its inception, parole was decentralizing throughout NSW to more localized and regional branch offices such as to Parramatta, Newcastle, Wollongong, and Gosford (NSW Department of Correctives Services, 1968: 38).

\(^5\) The regulation of penal populations as a collective was an effect of bio-political measures to broadly calculate and organize life in
such way so as to maximize and circulate its productive aspects, while removing or eliminating threats (see also Chapter VI). Penal release emerged more than a social integration scheme, but also as a broader security mechanism for ensuring a proper and efficient circulation of penal populations and knowledges. Women were thus regulated and governed within specific spheres of life as a way to attend to broader corrective strategies and enhance measures of security.

Social and Penal Spaces
Dispersion of prisoners to the spaces of parole and aftercare volunteers was not only intended to instantiate sociability or stability, but to also increase the mechanisms and strategies associated with a power over life and a concern for security. This focus was a reflection of modern government interests to enhance life at the level of humans as a species, as well as promote the independence and strength of its individual members (see Dean, 2002: 122). Where the ticket-of-leave scheme set a foundation for a circulation of penal populations throughout the social, aftercare was established within the interstices and micro-arenas of politics and social life to promote (re)integration.

Parole, operating from an aftercare framework, was to similarly offer 'social services' to prisoners upon release, with an additional mandatory supervisory component that addressed broader safety concerns. As a result of parole working out of the penal establishment, aftercare was used as a mechanism to address the lack of trust and the areas of 'service' that parole could not reach. "In their work they were completely free to take or reject any case presented to them. They were free to be critical at any point on the function of parole and prison after-care" (Australian Prison Aftercare Council, 1965a: 27). This independence from official penal operations afforded aftercare some of the flexibility that a parole function could not attain within an 'authoritarian setting'. Volunteer aftercare could address the gaps and areas in the prisoners lives that a penal apparatus sought to manage. Aftercare volunteers were thus considered an invaluable extension to and reinforcement of a parole function to further address safety concerns identified within the social.

With identification systems and classifications developed within the penal apparatus, prison release schemes could organize a more efficient regulation of penal populations with aftercare extended to the more non-discursive or untouched aspects of life. In
other words, aftercare could extend a power over life to those areas that had not yet been made a part of penal discourse. Volunteer agencies could offer “the reinforcement and extension of parole supervision, particularly in areas where regular personal contact with the released prisoner could not be established ... Voluntary workers provide a personal service which often the Parole Officer or any departmental social worker in his official capacity, may not be able to render” (Hayes, 1959: 14; 18). Through the combined efforts of penal discourse, parole, and aftercare, penality was in part developing a more consistent function over life by increasingly making use of and intervening in the social to better circulate penal populations.

Linked to other institutions and apparatuses of production, wealth, security, and health, the penal apparatus intervened at the level of the person through counselling, therapy, family relations, or housing, and at the level of the public through employment, education, and social programs. Valverde (1996) suggests that an illusory or fictional line is created between domains, such as between the public and private spheres in order to create spaces of rule that allow competing or contradicting modes of government to coexist. In a similar vein, Gruber (1989) and Cruikshank (1999) suggest that civil or liberal modes of government move out of specific spaces so that such spaces can be regulated differently. Aftercare volunteers, informed by wider exchanges with penal knowledges and yet acting independent of the penal service, could develop more local and private efficiencies. “It is to the community that the release prisoner returns, and unless society becomes involved in this work, the ultimate effectiveness of conditional liberty will be lessened” (Australian Prison Aftercare Council, 1965a: 27). These efficiencies were developed in the more personal and private worlds of prisoners through material support by assisting with housing, employment or education, as well as by developing trust by offering personal advice or friendship.

Linked to the more supportive and productive aspects of life, aftercare could reach into the more private world of prisoners, while the conditional and supervisory functions of parole schemes could inform and ensure this arrangement or meeting between volunteers and prisoners. Aftercare support was thus one mechanism through which normative social processes could be articulated, without the more intrusive or visible penal controls.
Release schemes and aftercare were used to encourage productive citizens through employability and welfare, access to educational programs, and family relationships and partnerships. (Re)integration was thus emerging as much as a problem for the social, than for penal or state management. The development and growth of penal schemes and aftercare reflected the prison as a certain impediment to resettlement. Even though it removed social threats, contaminants, or moral disorders, such unproductive influences were argued to be concentrated to the prison and also removed individuals from everyday normalizing processes of life: “rehabilitationists argue that the prisons are inhumane places, and experience of imprisonment has had bad effects on most people. The chances of a prisoner being ‘rehabilitated’ are better where the prisoner remains in the community than in the prison” (Richardson, 1979: 61). This approach to penal practices made release schemes and existing prisoner aid agencies more useful as, according to the Civil Rehabilitation Committee (1963), they could attend to the anti-social values of the prisoner, restore the prisoner’s civil rights, encourage change in attitudes, and promote prisoner humanity and resettlement. Problems that developed for the prisoner were identified as arising from the social elements of one’s life and resettlement was something that needed to be generated from and enacted in the social.

Despite prison limits, problems identified within the social were used to determine how best to address problems associated with imprisonment and subsequent release. It was through penal knowledges, processes, and gradations that problems could be identified and addressed and where modifications, coercions, and removals could take place. To promote security and productivity, it was in relation to both the penal and the social that problems needed to be identified. (Re)integration schemes could address the limits of a penal regime offering much in the way of integrating women back into the social while making use of penal knowledge to address broader government and security concerns. Such discursive aspects of penality had the positive effect of maintaining prisoners within corrective frames throughout the social, while making use of penal knowledges to facilitate such processes.

**Women and Social Knowledges**

Within penal discourse, women were often considered less dangerous and as representing only a small segment of the penal population. As such, women emerged as less of a concern for a penal management that was increasingly focusing on specific
social threats such as dangerousness or habitual ‘offenders’. The criminal act itself was the focus of penal management and control while social categories such as gender, informed daily penal practices for social integration. There was, for example, a focus on ensuring women performed gender related tasks, such as working in the cookhouse, laundry, or general cleaning (NSW Department of Corrective Services, 1975: 12). Where penal control was more interested in the social from a security standpoint, the more general social discourses on employment and family were an aspect of integration and normalization strategies for women.

Similarly, as a result of the census records emerging as part of a large scale data collection system of social demographics (e.g. National Census of Community-Based Corrections, 1986: 3), a category of ‘Aboriginality’ also emerged more as a social demographic. That is, social categories such as race were documented as a penal demographic interest rather than a focus for penal control. As a more general penal demographic with specific social and cultural capacities, women and other categories such as ‘Aboriginality’, initially emerged more of a problem for the social than for specific penal or legislative interventions. By problematizing social capacities, penal operations and developments established around women and other groups were made less visible as it prioritized penal management around social, gender, and cultural characteristics. Linked within penal configurations, however, social demographics and categories could more easily translate into identifications and interventions for penality.

With penal knowledges focusing on women as a social category, penal discourses and practices were generating from some of the more common gendered descriptors and expectations. At the Mulawa Training and Detention Center, for instance, programs for women were provided in cookery, cake decorating, pottery, social education, embroidery, weaving, typewriting, art, fashion and first aid (Dewdney & Miner, 1975b: 35–36). A merit system was also implemented in 1972 with women awarded merit

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* Despite emerging as a penal demographic, other social influences emerged to give a category of ‘Aboriginality’ a more decisive penal management, such as in accordance with employment standards outlined in the National Employment Strategy for Aboriginals (1977), an Aboriginal welfare officer was hired to attend to the general ‘rehabilitation’ of Aboriginal peoples and to provide release assistance.

** In 1969, the Mulawa Training and Detention Center was opened at Silverwater and in 1980 the Norma Parker Correction Center was opened to house women on work release programs. Guthrie House, the first and only half-way house for women in NSW, was also opened in the early 1980s and was later developed to house both women with children.
points for appearance, behaviour, cleanliness and performance at work. Penal discourses and programs were adapted to suit social categories of femininity. Release was focused on ensuring a more independent social character through spiritual stability, self-respect, taking responsibility, and being eased back into ‘community’ life (Australian Prison After Care Council, 1960: 12–13). Penal thought and practice remained concerned with shifting dependencies through perceived gender needs and social capacities rather than with penal control.

Tied to women’s social capacities to (re)integrate, the more invasive penal practices did not disappear as much as they shifted to produce specific penal modalities to encourage and enforce certain models of life. McCorkel (2003), for example, argues that even with broad or ‘equal’ penal practices applied to both women and men, or what she refers to as an ‘equality with a vengeance’ approach, the discursive practices of penality nonetheless advance understandings of women as both gender deviant and deviant ‘criminals’. In NSW, women were organized along levels of difficulty and were considered more complex, undisciplined, anti-social, anti-authoritarian, and harder to handle (Australian Prison After Care Council, 1960; Australian Crime Prevention Council, 1971; Rinaldi, 1976: 8). As a ‘difficult’ penal population, a social character of women was infused with penal discourses that attracted and legitimated interventions in the women’s social worlds.

With penal identifications and knowledges accentuating and circulating around women’s social worlds, not only did the identification methods multiply, but so did the identification tasks (Dubber, 1998: 140). Parenting, housing, budgeting, personal wellbeing, and health among others emerged within a social-penal nexus. Knowledges and interventions were also developing around the women’s capacities to manage and self-navigate the more personal aspects of their lives to promote social commitments.

Although women prisoners are comparatively small in numbers, their influence on the family unit and society is great ... their rehabilitation is more important than generally acknowledged and it is urged that all women prisoners should have: a) the opportunity to further their general studies; b) vocational training according to individual aptitude; c)
training in family life as a mother and housewife. (Australian Prison After Care Council, 1962: 78)

With a focus on the social, multiple angles of entry were established to make various aspects of the women’s lives more visible and accessible for correction. This not only had the effect of focusing on women’s private worlds and social capacities, but also attended to the more public spaces of employment, education, and civic responsibilities. Women were participating in work release programs that sought to encourage family involvement in women’s (re)integration. This weaving of penal thought and practice in and out of the private and public lives of women multiplied the ways the penal apparatus ensured continuous possibilities for correction.

**Homogenizing Penal Thought and Practice**

With the social as a mechanism for developing and promoting life, penal schemes and supports took more decisive measures to regulate contingencies: “[s]ecurity mechanisms have to be installed around the random element inherent in a population of living beings so as to optimize a state of life” (Foucault, 2003: 246). In 1953, a system of prisoner classification was introduced in NSW to determine prisoners’ placements, potentials for escape, and levels of risk to the ‘community’. Classifications were based on determinations made through the use of interviews, questionnaires, and educational and psychological tests undertaken by a committee of educationalists, psychologists, and trades people. In 1970, the penal service’s Research and Statistics division was created to develop specific analyses of the demographic categories collected over the years. In 1978, the security classification scheme was further refined with subcategories added to each level of classification, and in 1985 a Prisoner Classification Board was established. An integrated computerized record system was adopted in 1988 to address a perceived paucity in penal information and to avoid overlap of work between departments. The fingerprinting system implemented in the colony was further systematized through a Central Names Index number scheme that detailed the name, date of birth, fingerprint, and fingerprint number of anyone arrested by police. The Parole Act 1966 introduced a Parole Board into the penal service and a more systematized approach to prison release. Parole officers also lost a significant part of their decision–making autonomy over release
decisions. By centralizing and unifying information and coding systems, penalty sought to identify and target specific penal categories, regulate collectivities through classifications, reduce indiscretions, increase the flow of information, and give an appearance of stability and continuity. Linked to knowledges of fact, evidence, neutrality, the pervasiveness of such penal efficiencies had far-reaching effects.

Unifying Social and Penal Elements

Penality was developing around rationalized and ‘objective’ knowledges to remove decision-making from social actors and to move towards instruments of measure and systems of predictability. As discussed in Chapter I, this trend in penal knowledge reflects a shift from individualized treatments and a targeting of ‘crime’, to a broader management of risks (e.g. Feeley & Simon, 1994; Kemshall, 2002). Accordingly, the divisions and classifications of individuals along collectivities and grids of knowledge do not assume any particular subject, but rather seek to regulate groups of people (Simon 1988: 790). Despite its broad and far-reaching applications, with an investment in social sites, penal approaches also maintained the more disciplinary and individualized features through release practices.

Establishing correctional uniformity and bringing the extraneous and unknown aspects of the social in line with penal knowledge was developing through a notion of ‘evidence-based’ programming. This is defined as “principles and practices that have been shown to work in the past ... and knowledge gained from systematic research and evaluation” (Borzycki, 2005: 26). Penal practice, as it is also currently developing, sought to implant only those programs that had been accredited through officially recognized methods of risk management. This approach further encouraged the integration of and coordination between those who worked in penalty with specific social arenas to reduce reconvictions and encourage ‘good practices’. Evidence-based approaches sought to create a more communal language between workers, institutions,

48 The main responsibility of the Parole Board was to determine release prior to the expiry of the non-parole period set by the courts and was based on individual case management reports. This was eventually changed with s135 of the Crimes (Administration of Sentences) Act 1999 that saw such determinations made by the Parole Board for those sentenced to periods of imprisonment longer than three years. Under the Crimes (Administration of Sentences) Amendment (Parole) Act 2004, the Parole Board has now been renamed as the Parole Authority.
groups, and prisoners whereby specific codes of practice could be translated and reproduced into broader corrective orderings.

Already tied to social characteristics identified through aftercare, aspects of life were adapted to delimit and shape a specific awareness of penal populations enhanced by the systematic collection of key demographic information such as age, gender, and ethnicity among many others. Social categories were used to develop elaborate information systems to regulate collectivities and make determinations of ‘criminal’ proclivities. Measured through rates of (re)arrest, (re)conviction, and/or revocations, social identifications emerged as categories for determining social threats and (re)integrative potentials. For example, a case management system was developed to create an integrated social and penal awareness of prisoners from the onset of their sentence into post-release. Case management emerged as a collaborative, multi-disciplinary process that could assess, plan, implement, co-ordinate, monitor and evaluate options and services to meet individuals’ needs (NSW Department of Corrective Services, 1999). Given such an approach, it became necessary to know prisoners as early as possible to ensure ongoing and consistent management and direction (North, 1973: 23). Pre-sentence reports were used to assist judges and magistrates in sentencing decisions by providing information on family background, education, employment, and ‘criminal’ history, while prison and post-release reports were used to parole and aftercare bodies.49 Case management offered ongoing accounts of prisoners’ corrective plans in order to assess suitability for parole, document successes and failures, reveal activities undertaken in prison, consider potential dangers and risks, and reveal social histories and relations. Creating ongoing contact points of knowledge was part of a technology of visibility that developed a specific awareness of and access to penal populations and individuals.

It was not through broad-based regulations alone that these aspects of penality came into being, but by breaking down elements of the social in order to make its various aspects more known and tenable. As Gruber notes, individuation makes use of detailed knowledge to increase aspects of life (1989: 617). With a focus on regulation, the disciplinary mechanisms of penality were made less visible as they were invested in a

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49 Even though parole officers could make sentence recommendations, they were not to direct or contradict a judge's decision-making authority.
more detailed ordering of the social that allowed penality to shape, impose, elaborate, and intensify its practices.

**Regulating Penal Professionalism**

In NSW, where efforts continued to legitimate a penal approach, the necessity of parole as a formal penal service was challenged. This was in part the effect of a broader challenge to a ‘rehabilitative ideal’ that was no longer reflecting penal discourse and management. Often associated with what is commonly known as the ‘Martinson report’, a philosophy of rehabilitation was largely disputed: “[w]ith few and isolated exceptions the rehabilitative efforts that have been reported so far have had no rehabilitative effect on recidivism” (Martinson, 1974: 25).\(^5\) Around this time, other discretionary and immeasurable practices such as indeterminate sentences and flexible parole release practices were targeted by policy makers for revision or elimination (Lynch, C, 2000: 40). Embedded in social work and rehabilitative discourses, release schemes such as parole were criticized for acting as a basic social welfare service that failed to reflect broader regulative schemes and determinant practices.\(^5\) Early release was also considered to be inconsistent and competing with the courts’ decision-making authority. Although release schemes had their own usages and effects, as a professional penal and reporting mechanism, it needed a formally articulated rationality as to how it was invested in a shifting penal economy.

Developing professionalism and objectivity in the parole service was part of a strategy to match penal practices and develop a more coherent penal project.\(^2\) For instance, parole length was devised as a decisive measurement that ensured supervisions were not too short or too intensive so it could instill the right effects without becoming cumbersome or overbearing: “[parole was] to show greater expertness in the selection of the correct time to commence conditional liberty and to supervise and assist those released to such liberty with greater skill and humanity” (Morony, 1976: 13). With penalty oriented towards organizing groups and individuals in a more optimal, continuous, and

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\(^5\) See also Israel & Dawes (2002) for a more general overview of the report and their analysis of its impact on Australian rehabilitation approaches and ‘community-based’ programs.

\(^5\) In NSW, part of the reason social work was also losing its appeal was due to the lack of male workers to employ from a social work pool.

\(^2\) For instance the NSW Probation & Parole journal was replaced by the Temple Court journal in 1977 in order to establish a “professionally oriented collective voice”.


permanent way, parole could bring many aspects of the prisoners' lives into view for correction. Where social arrangements and categories were shaping penal knowledges, parole was developing as a formal system to enhance an efficient and productive awareness of penal populations.

With parole developing as a professional penal service, aftercare volunteers also needed to carefully consider their role in relation to the parole service, particularly given that they existed within a potential to compete with unifying penal discourses. As later noted by correctional personnel:

> The Department of Corrective Services has a legislative function to fulfill. Abrogating large sections of this responsibility to other groups is problematic. It denies the expertise that departmental personnel have and it transfers many departmental functions to groups without statutory responsibilities. (NSW Task Force on Women in Prison, 1985a: 19)

As parole extended its practices, aftercare developed into a more peripheral aspect of an ever increasing corrective function. It was also around this time that aftercare agencies such as the Civil Rehabilitation Committee and the Prisoner's Aid Association were losing favour with the Service as a result of tensions and overlap between work performed. To retain its legitimacy aftercare volunteer agencies were required to further align themselves with the roles and responsibilities of parole. As noted above, more organized and coordinated aftercare and volunteer services became an essential part of effective (re)integration strategies and professional parole system. Acting on behalf of but independent of the penal system, volunteers remained a resource for addressing deficits and establishing continuity between social and penal thought.

Unified and regulative penal discourses did not create a totalizing penal machinery, but rather homogenized its elements and that gave it a more coherent appearance. Professionalism, evidence-based practices, and other unifying strategies created a legitimacy of practice that increased its viability as a system. Tensions and conflicts that arose in the field of penality, for instance, were advanced as problems with communication, regularity, lack of time, poor management or implementation, or heavy case loads (e.g. NSW Department of Corrective Services, 1973). Problems that would
arise in the field became a question of efficiency or consistency and a problem for rather than with penalty. Despite challenges to parole, as part of a penal strategy to establish social knowledges and effective life management, it emerged as a more thoroughly articulated feature of correction.

Prison as the Last Resort

O’Malley (1996: 31) suggests that the re-figuring of the social creates new collisions and confrontations. A shift towards more unifying and regulatory knowledges generated collisions and problems for penality in such a way that it opened various parts of its elements to public and political review and scrutiny. In NSW, the Nagle Royal Commission (1978) tabled a report on the failures of penal management and the resulting abuses of prisoners. With knowledges of the limits of the prison already established, prisons were considered inhumane and costly, with decarceration as the preferred option (see also Richardson, 1979; Muir, 1979). The Nagle report made recommendations for prisons being used as a measure of last resort with efforts made to find other, more constructive and humane forms of punishment. The report supported the use of parole as an essential practice for reducing prison populations and as a more humane practice. It also criticized the penal service for failing to develop further continuity between prison and release. Problematizations and reforms were also circulating around efficiencies of penal schemes and knowledges, rather than questioning the utility of its actual exercise.

A Social Penality

With a focus on enhancing penality, the Nagle report reflected attempts to bring social elements into a penal exercise. The report suggested that a prisoner’s lifestyle should more resemble that of the outside world through improved education programs, relaxation of rules relating to visits, improved communication with relatives and friends, better access to legal representation, and improved medical and health treatment (ibid. 709–710). Also highlighted in the Nagle report were discourses and practices to reflect and infuse penal elements into social arrangements. The report suggested it was the penal service’s responsibility to inform communities of the benefits of parole and to win public confidence (ibid. 337). In 1978, the Muir Committee, established to review the Parole of Prisoners Act 1966, looked at Nagle’s recommendations and acknowledged the validity of ‘prison as a last resort’ philosophy. The Committee, however, sought to
balance such an approach with judicial decision making and reasoning and advocated for legislative reform to balance a prisoner’s sentence with parole length. For example, recommendations were made to encourage early release when it did not compromise the severity of a criminal act and subsequent sentence: “The Parole of Prisoners Act should be amended to provide that a non-parole period may be specified only on sentences of imprisonment in excess of three years” (Muir, 1979: 15). The Minority Muir report further emphasized judicial accountability such as by recommending for the complete abolishment of parole with the replacement of determinate sentences and restrictive probation orders without the intensive aftercare supervision or counseling. The Australian Law Reform Commission also recommended the abolition of parole for federal prisoners in 1979 in its Interim Report on Sentencing of Federal Offenders. With a concern the relationship of parole with the judiciary, the Probation and Parole Act 1983 was introduced to address concerns raised by Justice Nagle and to ensure ‘truth in sentencing’. It was also implemented to address a public scandal involving the Minister of Justice, Rex Jackson, who took bribes for releasing specific prisoners early on licence schemes (see Chan, 1992), thus eliminating individual or ministerial discretion of prisoner release (Simpson, 1999: 13). The Act offered automatic release of prisoners sentenced to less than three years, with remissions to be deducted from one’s minimum sentence term. Further to this, other legislation was introduced to minimize discretionary prison terms offered through remissions. To ensure consistency and avoid interfering with judicial decision making the Probation and Parole (Serious Offences) Amendment Act 1987 was introduced to ensure mandatory minimum sentences and the Sentencing Act 1989 saw the abolishment of remissions. Attempts to address what were considered to be the more inconsistent, arbitrary, or abuses of penality became elements of the apparatus that needed to be improved and balanced rather than eliminated.

Given the limits of the prison and a decline in the ‘rehabilitative ideal’, parole and ‘community-based’ schemes were now developing as forms of punishment that could address the limits and abuses of the prison, offer surveillance, and alleviate some of the infringements of liberty imposed by the prison. Used in reference with prisoner rights and civil liberties, punishments and penal practices needed to be arbitrated with social

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51 In 1988, The Australian Law Reform Commission retreated from this position to one favouring reform of parole procedures and automatic release.
and living arrangements for effective (re)integration. By providing continuity in a sentence, early release schemes could ensure a courts' sentence was carried out, while productively managing and supervising prisoners. By arbitrating between punishments and circulating penal populations, a system of parole and aftercare were emerging as an effective tail end service to the penal system. As a form of surveillance linked to a continuity in sentence and case management, parole was not a 'soft-option' but had the necessary interventions to balance threats presented to the 'community' with a (re)integrational necessity: “Managements within the community are determined by offsetting the benefits to the prisoner to be on release against the potential harm and protection of society” (Ward & Keller, 1982). Parole and aftercare were thus situated to bring some of the more social and 'humane' aspects of life into a penal functioning, with penality maintaining a decisive and interventionist role throughout the social. With the social used as a penal strategy, support and surveillance could be articulated and delivered in the same space without challenge to corrective arrangements.

Reasons for decarceration and a shift to 'community' have been variously reported as an effect of system failure, state overload, and penal expansion (Crawford, 1997: 64). It is not so much that penality was breaking down or expanding its features, however, but that it was shifting its decisive force. If it appeared that penal knowledges were fragmenting, it was because conventional modes of reasoning were becoming less familiar (O'Malley, 1996: 32). Penality was establishing a multi-system of correction and security with programs grounded in evidence, regulation, discipline, and populations. This was achieved by balancing interventions and punishments between prison and the social. With the penal apparatus long embedded within the multiple dimensions of social logics, broad shifts and challenges to its operations resulted in a further integration of social and penal schemes.

With social economies invested and entwined with penality, efforts made in NSW to implement a recommendation of prison as a last resort were largely resisted. It was not so much a failure to realize reforms that certain penal effects did not take place, but that

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54 With such judicial involvement, prisoner rights were beginning to be given prominence with prisoners conferred all rights except the loss of liberty (ibid. 721–722; see Chapter VII).

55 Chan argues that attempts to decrease the NSW prison population were met with administrative, political, and economic resistance, and was particularly resisted by the Prison Officer's Union (1992: 21–37).
the overall effects of the apparatus’ prevailing logic to create systems of regularity, unity, order, stability, and certainty made various aspects of its operations adaptable where it could shift in and out of social domains. With its rules and inventions also found in the social, some of the more overriding logics of penality remained untouched and hidden. Penal thought and practice took on an expansive and individualizing form that could work in and between the various points and relays of contact made between individuals, the social, and penal apparatus. The unifying approaches gave the sweeping mechanisms of penality its necessity, while a problematizing and segmenting spaces of the social detracted from broader incompatibilities, inconsistencies, and competing arrangements.

Women and Social Indices of ‘Crime’
In the Nagle report, specific consideration was given to the treatment of women and Aboriginal prisoners as ‘special’ classes of prisoners with particular needs and requirements. Within the report, women were again identified as less violent and as committing more social incidences such as drinking, drug use, vagrancy and prostitution. Even though other reports argued there was an increase in women’s participation in more serious ‘offences’ (e.g. Adler & Adler, 1975; Dewdney & Miner, 1975a), such numbers were still considered ‘statistically’ low. Presenting less of a social threat and more of a social concern, women and other specific categories of prisoners were considered as having multiple social needs requiring some intervention or support. Where women, as well as Aboriginal peoples, were initially established more or less as a penal demographic, they were increasingly emerging as special penal populations. In the mid 1980s, for instance, specific Aboriginal affairs policies were beginning to identify Aboriginal peoples as a distinctive penal population and programs were instituted to encourage diversion to Aboriginal communities that linked prison programs with post-release support schemes. Emerging as distinctive penal categories, these new classes of prisoners were now informing a part of regulative and evidence-based approaches of penal knowledge. Penal categories, such as women and Aboriginal peoples, were ascribed with a certain social make up considered instrumental to their (re)integrative potential and intervention needs.

Despite attempts to ensure the use of prison as a ‘last resort’, the imprisonment rate of women in NSW was steadily increasing in addition to the problems arising at Mulawa women’s prison that included overcrowding, out-breaks, and high rates of suicide, in
1984 a Women in Prison Task Force a NSW was established to on the ‘appropriateness and adequacy of custodial facilities for women in NSW (Brown, Kramer, Quinn, 1988: 286–287). In 1985, the NSW Task Force on Women in Prison issued a report that argued, among other things, women did not require confinement as much as they did social programming. Working within an abolitionist and social justice framework, the Task Force challenged some of the general assumptions of penal thought and corrective practice:

The Task Force sees it as crucial to recognize that imprisonment rates do not reflect some ‘natural’ or ‘inevitable’ connection between levels of crime on the one hand and imprisonment on the other, a connection perceived as mediated by the ‘neutral’ or technical processes of the operation of the legal system which therefore cannot be significantly altered. (NSW Task Force on Women in Prison, 1985b: 40)

As a special penal category, women ‘caught’ in the system was not the result of some direct equation between their rates of ‘crime’, but rather part of a social process that targeted women who were at a relative disadvantage. For instance, the report stated that women in prison reflected a majority of the penal population who were single heads of family, unemployed, and drug and alcohol affected. The Task Force further criticized using a male classification system for women in prison since it failed to capture the experiences and context of women’s ‘offending’. Given the small numbers of women in the system, penality was criticized for failing to recognize and address the social challenges and experiences of women and for making security and ‘statistics’ its main emphasis.

Alternatively, the Minority Report (1985a) of the Task Force, drafted mostly by members and representatives of the penal service, was more focused on changing the practices of confinement. In opposition to the Task Force’s strategy to reduce the use of the prison, the Minority Report made recommendations to improve prison conditions, provide more women–specific prison programs such as work release that promoted gradual (re)integration, and devise prison programs that would encourage self-esteem and
This emphasis on changing the practices of confinement as opposed to reducing the prison population was further supported within the Minority Report by arguing that a 50-60% reduction of the women's prison population was unrealistic given the changing character of the women's prison population. The report, for instance, highlighted an increase in the prison population (20) and increasing rates of violent offences committed by women (21). The Minority Report thus called for more penal intervention and, taken together with the major Task Force Report that focused on reduction and diversion, various penal alternatives were combined with penal interventions.

The combined reports thus generated further research into the possibilities of addressing abolitionist concerns with reducing the prison population and ensuring the specific penal requirements and needs for women were achieved. For example, the Martin Report (1987) recommended the establishment of a classification committee for women that could address women's specific criteria and program development, rather than merely the security risk they posed. In August 1997, the penal service implemented the Women's Classification System to give priority to women's 'program needs'. In 1999, the penal service developed a women-specific action plan that concentrated on the needs of women in custody and looked at providing alternative placement options. Its successor, the NSW Department of Corrective Services, Women's Action Plan 2 (2000), broadened its focus to include continuity in case management and address the needs of women released from prison. These developments marked part of the beginnings of a penal project that would make use of social knowledges of women, such as employment, education, and so forth, as points of modification and correction.

**Conclusion**

Release schemes, since colonial times, have provided an ability to know and circulate penal populations within the social and have relied upon its informing discourses to shape a broader corrective character. With the emergence of new penal knowledges

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56 These recommendations were similar to an earlier report released by the penal service in 1975 that called for more work release and other aftercare programs. The report further suggested that "most women prisoners perceive little or no effect of their prison term on their families, accommodation and jobs" (Dewdney & Miner, 1975a: 4).

57 The Crimes (Sentencing Procedure) Act 1999 was also implemented with those with a sentence of six months or less given a fixed term without a parole component. For sentences of more than six months but less than three years, the court sets a non-parole period and specifies any parole conditions.
based in evidence, objectivity, and regulation, the role of the social in forming and informing penal thought and practice had the effect of producing more continuity between its elements. Along with parole and the assistance of prisoner aid groups, release schemes could bring prisoners more in line with emergent and ongoing penal reforms. Emergent release schemes played an integral part in accommodating shifting rationalities and facilitating penal and social management, and not only as an afterthought to the prison.

Through classification instruments, measures of predictability, and offering mechanisms of protection and accountability, the penal apparatus was developing more effective ways to work across and within social domains. This general aggregate of penal identifications, coupled with the more detailed individualizing knowledges, brought women into a field of play that aligned conduct with overall bio-political and disciplinary projects. Facilitated by the development of the formal institution of parole and more coordinated aftercare arrangements, various spaces of penalty were made less visible and more difficult to challenge its overriding logics and operations. Although the legitimacy of parole as a formal system of release was challenged, a move towards evidence-based approaches also provided it with a more thoroughly articulated rationality. Despite the more regulative and broad managements tied to penal thought and practice, the more detailed aspects of life and social arrangements did not so much disappear as they shifted to more discrete pockets, where release schemes and aftercare ensured penal logic was not alienated from the social.

The survival of post-release penality and aftercare reveals some of the more enduring aspects of correction. Prison release — negotiated as a point of uncertainty, transition, privilege, and liberty — had the effect of ensuring prisoners were released within corrective knowledges and strategies of (re)integration. For women, multiple aspects of their lives were used as points of identification and intervention; the family, interpersonal relations, labour, and the private and domestic sphere were all included. Where programs and modifications targeted prison populations as a whole, the difference in the treatment of women was initially left to existing social arrangements. This allowed for both continuity and fluidity between public and private domains and between the prison and the social. By making social knowledge part of a penal exercise, a corrective order remains integral to the treatment of women within and outside the
prison. This does not suggest that penal practices are consistently or necessarily distributed throughout the social, but that their usages are made possible at any time and in many variations.
Chapter V

A New Kind of Women: Correcional Continuity of Social Disadvantage


Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it’s the only thing that ever has.
Margaret Mead

If prisons and punitive mechanisms are transformed ... it will be when those who have to do with that penal reality, all those people, have come into collision with each other and with themselves.
Foucault, 1991a: 84-85

To varying degrees, women released from prison are enlisted in multiple and overlapping, supported, supervised, and/or structured release schemes that intervene at the level of social norms and processes of life. Where penal release schemes and aftercare afforded penality a particular access to and awareness of women’s social worlds, a shift in discourse has now introduced a new kind of understanding of women adapted to inform an existing penal exercise. Primarily emerging from a critical feminist discourse, penal practices were criticized for enlisting women within norms of domestication, motherhood, and femininity that further penalized them for gender differences and social disadvantages (Hatty, 1984). Penal practices were thus considered to be gender-blind by way that the same regulatory frameworks, classifications, and programs used for men, also applied to women. With women in and out of prison identified as significantly different from their male counterparts and experiencing the social in very specific ways, a different kind of problem emerged for a penal exercise.

Predominantly adapted from a critical discourse developing over the last decade from Australia, the UK, and North America, a concept of ‘pathways to crime’ emerged to reflect those social, cultural, and economic aspects of the women’s lives that contribute to what is considered their ‘participation’ in the ‘criminal’ justice system – “to enable them to acquire skills, address deficits, and assume responsibility for living constructive law-abiding lives” (NSW Department of Corrective Services, 2003c: 3). Taken from an
emergent body of literature that criticizes penal practices for ignoring the social and economic challenges faced by women in the system, current penal approaches ensure a detailed knowledge of women, now as a special penal category. In this Chapter, I reveal how feminist thought and critique is transformed within the penal apparatus whereby a social context of gender emerges as the focus for both penal control and social (re)integration. Women are now considered in terms of how their gendered experiences can be regulated to foster both ‘normal’ processes of life and promote security.

With increasing discourses emerging around the process of release and the need for aftercare, a concept of ‘pathways to crime’ emerged in the late twentieth and early twenty-first centuries to address the broad spectrum of penal management from entry to release (e.g. Petersilia & Travis, 2001, Lynch & Sabol 2001, Travis et al. 2001). Penal research was focusing more than on actuarial assessments of criminal threats, recidivism rates, or causations of crime and also on the prisoner’s personal worlds, situational contexts of family, peers, community, and the effects of penal and political policies (see Vishers & Travis, 2003). Focus was turned onto the complex makeup of one’s life ‘leading’ up to penal involvement up into the personal and social factors potentially influencing ‘criminal’ involvement. In NSW, the correctional department developed a Women’s Pathway Project in May of 2001 outlining women’s social characteristics and subsequent criminal participation and the necessary penal interventions from penal inception into release. According to the Project:

the Department acknowledges that the criminogenic needs of women are different from those of men. Women’s needs must be contextualised within the realities of their social, vocational and economic circumstances and with women’s specific patterns of learning and interacting with peers and authorities. (NSW Department of Corrective Services, 2001b: 1)

Taken from a social perspective, a critique of women’s involvement in the penal system is broadly linked to their past experiences of social and economic disadvantage, such as with gender and racial inequality, histories of sexual and physical abuse, poor health and mental health concerns, homelessness, lack of education, unemployment, poverty, and/or alcohol and drug use. The concept of women’s pathways to ‘criminality’ is used to
describe those aspects of life considered to have contributed to an involvement or participation in the 'criminal' justice system, along with the interventions and 'choices' that can be made upon release to enhance and promote a 'crime-free' lifestyle. With specific knowledge codes and conventions linking women to multiple and overlapping social, cultural, and economic disadvantages, penal knowledge was adapted to accommodate such critique and organized women in such a way that privileged and prioritized corrective interventions.

Women's pathways to 'crime' (or pathways) emerged as a means to identify, locate, and isolate problem areas where women fail or are failed in life and exist within a heightened potential of 'crime' or 'recidivism'. What was initially addressed through release schemes and aftercare emerged as the social and material requirements now used as the penal measure and means to contain 'criminality' and protect 'community'. Based on penal knowledge that conceptualizes individuals as autonomous agents, women's participation in a corrective regime is made necessary to enhance individual capacities and promote social strength and safety through the management of women's lifestyles and public participation. As a result, women's social disadvantage is now used as a condition and criterion of their freedom and or removal. For women on release, whether or not they are accompanied by formal penal schemes, specific penal knowledges shape and inform an apparatus that invests and ties women, however tenuously or tacitly, to part of its activity and ongoing forms of correction.

Offering removal strategies against perceived threats, correctional discipline also establishes the rules and procedures for ordering and delimiting sites of social participation upon release. As further outlined in the Pathways Project:

> It operates at all levels: between the Department and other Government and non–Government agencies; between the custodial and community supervision sections of the Department; between correctional centers; between custodial and non–custodial staff; and between disciplines of the Inmate Services and Program Staff. (NSW Department of Corrective Services, 2001b: 2)

Identification strategies remain critical for an underlying corrective framework with women's pathways not only shaping a part of formal release schemes, but accompanying
them well beyond penal programs. The penal apparatus thus becomes part of the pathways project to gather, organize and delineate the identifications and knowledges necessary for women’s penal management and social participation. With concerns of women’s social disadvantage now advanced as both a penal and social problem, penality is positioned to address its own limits based on concerns raised around women in and out of prison. As a problem for correction, the prison acts as the point of departure for improvement and change and from which a ‘crime-free’ path can be introduced and effectively navigated. It is therefore through penal knowledge that women’s disadvantage and deprivation is harnessed, marked, and explored, and from the prison that their path towards their correcting ‘selves’ emerge. For this chapter, I contribute to the discussion that has been developing an understanding and awareness of how social and feminist critique are absorbed into penal thought and practice (see Howe, 1994; Hannah-Moffat, 2000; 2001; 2004; Snider, 2003; Maidment, 2006; Ringrose, 2006). I examine what is increasingly referred to as a pathways approach within penal spheres and how it is has been productive for release schemes and the making of particular correctional terrains more specifically to NSW, Australia.

**Women’s Pathways and Social Fields of Correction**

With the growing collection and analysis of penal data and demographics, multiple connections were established between the social and the penal apparatus to shape new penal categories and corrective formations.

**Within the correctional system, there are a number of recognized groups whose needs are deemed sufficiently different from the mainstream prison population to warrant special attention. They often include women offenders, Indigenous offenders, mentally ill offenders, intellectually disabled offenders, and offenders from other cultures. (Howells et al. 2004)**

Although women were, and are still considered to represent only a small segment of the prison population, a growing body of research was emerging in the late twentieth century that identified large scale increases in women’s representation in the system (e.g. Quadrelli, 1997; Phillips & Harm, 1998; Aglias, 2004; Dodge & Pogrebin, 2001;
Given the focus on women, feminist literature was also becoming more invested in penal research and discourse to explain and address the increase in the rates of imprisonment and women's involvement in the 'criminal' justice system. Briefly outlined, discussions ranged from responsibilizing the women's movement for an increase in 'female aggression' and a narrowing of the gender gap in the types of 'crimes' commissioned (e.g. Adler & Adler, 1975); to theories on disparity in the treatment between women and men in the system (see Zedner, 1991; Gelsthorpe & Morris, 1990, 2002); and to a consideration of gender expectations, paternalism, and harsher treatment (e.g. Carlen, 1983; Dobash, Dobash & Gutteridge, 1986). Traditional penal thought and practices were criticized for placing too much emphasis on 'crime' as primarily a male activity, with women given little or no significant consideration or as being too few to count (Adelberg & Currie, 1987; Worrall & Hoy, 2005). With women largely considered a neglected group, they were also increasingly focused upon as a special penal category.

As part of a growing body of feminist and penal scholarship, detailed consideration is now given to the various aspects of women who are involved with the 'criminal' justice system and the social disparities that exist for them. Such consideration includes family and relationships (e.g. O'Connor, 1996; Dodge & Pogrebin, 2001; O'Brien & Harm, 2002), children and single parenting (e.g. Butler, 1994; Morris & Wilkinson, 2000; Goulding, 2004), housing and homelessness (e.g. Baldry et al. 2003), health and mental health (e.g. Bloom, Owen & Covington, 2004; Schrader, 2005), employment and poverty (e.g. Harm & Phillips, 2001; Petersilia, 2003), education and literacy (e.g. Case et al. 2005), HIV/AIDS, Hepatitis C & other diseases (e.g. Galbraith, 2004), alcohol and/or drug use and addiction (e.g. Farrell, 2000; Messina, Burdon & Prendergast, 2003), family violence and histories of abuse (e.g. Armytage, Martyres & Feiner, 2000), sexual assault and abuse (e.g. Chesney-Lind & Pasko, 2004), death and rates of mortality (e.g. Davies & Cook, 1998, 2000), racialized and cultural differences (e.g. Richie, 2001, 2004; Henriques & Manatu-Rupert, 2004; Daly, 1993, 2004),

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48 For example, women's rates of imprisonment in the United States increased from 11, 212 to 96,215 (757%) between the years 1977 and 2004 (Greene & Pranis, 2006; see also the JFA Institute, 2007). In Canada the number of women increased by 30% from 646 in 1995 to 849 in 2000 (Auditor General of Canada, 2003). Britain also saw an increase of women in prison by 140% between the years 1993 and 2001 and the courts were five times more likely to use custody in 2001 than in 1992 (Women & Equality Unit, 2003). In Australia, women's imprisonment rates rose 56% from 1993 to 2003 (Australian Bureau of Statistics, 2004).
victimization (e.g. Chesney-Lind, 2006), poverty (e.g. Severance, 2004), the rarity of charges for violent ‘offences’ (Gelsthorpe & Morris, 2002), counselling and support needs and relations with correctional staff (e.g. Dodge & Pogrebin, 2001), unstructured or unsupervised time and associates (Severance, 2004), violence and self-harm (e.g. Schrader, 2005), coping strategies (e.g. Brown, 2004), everyday requirements such as identification, banking, budgeting, clothing, and transportation (e.g. Galbraith, 2004), disorientation and despair (e.g. Pogrebin & Dodge, 2001), stress, stigma, and shame (e.g. O’Brien, 2001a; Petersilia, 2003), self-esteem (e.g. Armytage, Martyres & Feiner, 2000; Pogrebin & Dodge, 2001), and spiritual needs (e.g. Covington, 1998). Infused with gendered and social categories, women’s cumulative and individual experiences are recognized as distinctive aspects of their criminalization or participation in the system. A social and feminist critique with a commitment to gender equality, developed in relation to penal thought and practice, is taken up to generate further penal categories and embed women in other correctional sites and formations. Within a social–penal nexus, specific knowledges of women are advanced to shape correctional spheres that link women to their multiple and overlapping social, cultural, and economic disadvantages. The penal apparatus emerges as a privileged site to inform, develop, and determine the strategies and programs for what is considered particular to the context of women.

**Securing Women–Specific**

With a growing body of scholarship with a commitment to gender informing penal discourse, penal management in NSW was increasingly organized to address the identified gender disparities and neglect in the penal service (Loy, 2000: 2). For example, a Women’s Services Unit with a mandate to provide policy advice and advocacy and to promote a ‘direct voice’ for women in prison was established. As noted in the previous chapter, the penal service earlier released the Women’s Action Plan in 1994 to set ‘practical’ guidelines for the penal management of women specifically. The plan outlined requirements for women–centered strategies based on their social disadvantage and placed emphasis on programs and services reflecting a holistic approach to women’s health and wellbeing. Penalty was implementing coordinated and

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59 For example, the Mulawa Report (NSW Office of the Ombuds, 1997) that investigated complaints made by women from Mulawa Women’s Prison, was principally critical of the lack of women–centered programs and focus provided by the NSW Department of Corrective Services.

60 The Women’s Services Unit was disbanded in early 2005 and was replaced with the single headed position of Principal Advisor on Women–Specific Issues.
flexible programs and services for women in the areas of relationships and living skills, problem solving abilities, alcohol and drug issues, health, education, vocational training, offence-specific programs, and recreational activities, along with women equitable provisions. In effect, it was the Women's Action Plan in its practical, equitable, and holistic approach to women's disadvantage that facilitated the grounding of feminist thought and discussion within penal and correctional frames. Advancing understandings of women as owning distinctive life histories and experiences could also address concerns around the growing numbers of women in the system. In NSW, the Select Committee on the Increase in Prisoner Population released an interim report that looked specifically at the increase in women's imprisonment and suggested that penal practices developed for men were ill-fitted for women: "[w]omen have different physical, psychological, dietary, social, vocational and health needs and this should be managed accordingly" (2000: 150). The report also made recommendations to support 'community' sentences and post-release initiatives that gave specific consideration to women in the system.

With social disadvantage identified within and translated to penal operations, women in the system are set apart from both penal and social populations, while framed as collectively sharing similar attributes. By framing women's disadvantage as contributing to high rates of imprisonment, two interdependent aspects of addressing the problem of women in the system emerged: first, while the penal system is identified as a host for women with social disadvantage, it is also offered as the remedy; and second, the penal apparatus is used as the mechanism to identify and address categories of disadvantage already concentrated to its operations. Through various informing discourses, the apparatus itself is positioned to identify social categories and develop the strategies to address the 'social problems' relegated to its confines. It is through this dichotomy that the penal apparatus is made both the problem and panacea to women's involvement in the system. With a more detailed analysis offered at the level of social critique, critical discourse and politic is taken up and operationalized within corrective frames that position the penal system as the vessel for change and improvement in the women's lives.

61 The report was considered to have looked more specifically at the administrative and procedural aspects of women's pathways initially given consideration in the NSW Task Force on Women in Prison (1985b) and particularly in the Minority Report (1985a) (see Chapter IV for a discussion of the Task Force).
By conflating social and political concerns with penal thought and practice, the resources and supports considered necessary to alleviate disadvantage are also used to shape women’s correctional ordering. Localized to specific areas of health, labour, and family, women’s associations and activities are made both traceable and alterable. With women’s capacity to self-actualize considered hindered by multiple social forces, the apparatus does not so much seek to change the diverse social conditions, but to make the necessary arrangements for women to self-regulate accordingly. Consideration of women’s pathways not only promotes (re)integration, but identifies those areas of life that should minimize social threats and advance women’s abilities to cope, manage, and survive their social world (e.g. Hart, 2000).

Advanced alongside measures of security, women’s pathways emerge as points for individual intervention and direction that fits both the woman and the transgression. Combined with emergent evidence–based penal knowledges, ‘community’ and release options are not ‘soft–options’ that privilege or advantage women (Biles, 1988: 51), but target social hardship and enhance individual capacities and lifestyles in order to promote public safety and protection. Pathways are thus linked to other factors such as security threats, unpredictable behaviour, unclear legal status, breach of ‘community’ orders, nature of ‘offence’, drug use patterns, physical threats to self or others, and manageability among others (Cerveri et al. 2005: 11). At the level of security, women are framed within general codes of stability and instability as outlined and determined through pathways and classification ratings. The less stable or certain the woman’s outside world, the more prevalent a penal logic of security to contain potential threats. Tied to the apparatus, a penal logic of correction, security, and order are retained while the penal apparatus exists as a remedy or recourse mechanism to the very social disparities or problems it has been designed to regulate, circulate, remove, or eliminate. Penality can exist within a contradiction as both problem and panacea as its logics provide sites and interventions for individual adaptations and social protection. Where correction is installed to promote safety, feminist and social critique is used to develop a specific and expansive knowing of women.
Diversity Management and Corrective Othering

With the emergence of social and feminist critique, penal knowledges were also developing around and extended to other populations, groups, and penal categories of women such as Aboriginal women, women with mental health concerns, women with children, women of different ages, women with short sentences, women of non-English speaking background, culturally diverse women, and other specifications of women. The apparatus generates its own intersectional discourse and categories for penal intervention and, in discussing this in the context of Aboriginal women, subsumes multiple and complex histories of disadvantage into a framework of security and correction.

With women in the system identified as existing with multiple and overlapping social hardship, a critical discourse of intersection has emerged to delineate the cross-sectional and compounding effects of social disadvantage (see Lawrie, 2003). Intersectionality occurs when “lines cross with other lines to create and divide spaces ... how we inhabit a given category depends on how we inhabit others” (Ahmed, 2007: 159). Intersectionality, as a framework to discuss the various social, cultural, historical, and economic categories one occupies, also considers how categories transverse one another at various points and in varying degrees to create specific experiences and conditions of existence. Within penal logics, an intersectional discourse is adapted to measure potential threat or harm with the accompanying categories of pathways used for a more decisive penal management.

Along with the increase of women in prison, there has also been an identified increase in the rate of imprisonment of Aboriginal women, amplified by their overrepresentation in the system. With women’s pathways emerging as a trend and problem for penal thought and practice, it has been identified as a particular concern for Aboriginal women.

Amid this bleak picture, there has been a growing awareness in recent years of the specific cultural needs of Indigenous women in corrections. It

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62 For example, in Australia, the imprisonment rate for Aboriginal women increased by 25% between 2000 and 2004 (Steering Committee for the Review of Government Service Provision, 2005). According to Lawrie (2003), Aboriginal in NSW women constitute 31% of the women in prison while making up 2% of the state’s overall population.
is beginning to be accepted that while much offending behaviour is linked to social marginalisation and economic disadvantage, the impact of non-economic deprivation, such as damage to identity and culture, as well as trauma and grief, have a significant relationship to offending behaviour. (Aboriginal & Torres Strait Islander Social Justice Commissioner, 2003: 137)

The overrepresentation of Aboriginal women within penal spheres is evidenced as not only a failure to address their particular cultural, social, and economic needs, but is heightened by systemic forms of racism stemming from Australia’s colonial legacy (Select Committee on the Increase in Prisoner Population, 2000; Aboriginal and Torres Strait Islander Social Justice Commissioner, 2003, 2005; Lawrie, 2003). Where the literature often links Aboriginal women's overrepresentation to administrative, procedural, and systemic forms of discrimination, within penal knowledge, the category of ‘Aboriginality’ emerges as a measure and point of correction.

Using an intersectional discourse, the category of ‘Aboriginality’ is tied to the various ways that women’s cultural and racialized lives can lead to or be linked with problematic or ‘criminal’ behaviour. Although Aboriginal women are not considered 'criminogenic' in themselves, their experiences and state of being carry a potential that contribute to their ‘participation’ within the system — the greater the social dispossession or alienation, the more they live in a heightened state of removal by the penal apparatus. A category of ‘Aboriginality’ materializes into a corrective figure who is enlisted within diversity management strategies that link the effects of colonial dispossession with specific corrective orderings.

A move towards supporting Aboriginal specific programs is partly to develop “trust and confidence in the criminal justice system by establishing local Aboriginal community justice mechanisms” (NSW Aboriginal Justice Advisory Council, 2005: 19). Aboriginal differences are presented as a certain obstacle and the penal apparatus is positioned to...
"break down barriers and strengthen relations through a hands-on experience and awareness of Aboriginal history and culture" (NSW Department of Corrective Services, 2003a: 10). Favoured discourses are those that reproduce or reflect what Andersen & Denis (2003) argue to be individualizing discourses of difference and hierarchical judgments that take priority over cultural variances and are more consistent with the system. The NSW Aboriginal camps, for instance, while they aim to "facilitate understanding, acknowledgment and healing of past hurts", they are also designed for Aboriginal peoples to "identify and accept responsibility for the present and recast the future in positive terms" (NSW Department of Corrective Services, 1998). The targeting of 'positive' beliefs and supportive sites for Aboriginal peoples also situates women and men within specific sites for intervention sponsored and approved by corrective projects and controls.

Diversity management in a penal realm shapes intersectionality discourse as culturally 'friendly' programs that target 'criminogenic' aspects of life. The service's Aboriginal Offenders Strategic Plan 2003–2005 highlights the development of the Karrka Kirnti Aboriginal and non-Aboriginal women's program that focuses on cultural awareness and identity. The strategic plan states that "social and economic disadvantage experienced by Aboriginal women indicates a need for correctional programs and services that recognise both cultural and gender differences" (NSW Department of Corrective Services, 2003a: 17). To address Aboriginal women's overrepresentation in the system, 'community' corrections remain a necessary link to address 'positive' cultural adjustment. Within the intersections of 'criminality', 'Aboriginality', women, and other identified disadvantages are corrective discourses and practices that isolate and link such categories. By directing and shaping the possibilities and conditions of an intersectional discourse, penal strategies are woven into notions of Aboriginal tradition, language, and culture, with race, poverty, and gender intersecting as interdependent and multiple dynamic categories for intervention. Wrapped in notions of Aboriginal custom and tradition, penal discourses are made less visible. It is also made more difficult to

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64 There is also, for example, the Yulawirri Nurai program developed as a post-release service for Aboriginal women and the Link-Up program for Aboriginal and Torres Strait Islander peoples designed to establish and strengthen family ties.

65 For example, the 1990 National Prison Census reported that the most frequent recorded 'crimes' committed by Aboriginal women were non-payment of fines, drunkenness, and social security fraud, which were a result of extreme poverty (Payne, 2007).
identify the institutional processes and programs linked to broader colonial tendencies that cultivate such disadvantage (see also Anderson, 1999).

The melding and combining of Aboriginal culture and tradition with penal programs and strategies supports the necessity of an institution that is also instrumental in contributing to the overrepresentation of Aboriginal women. Even though Aboriginal women's encounters with the system have historically been one of dislocation, dispossession, violence, over-policing, and incarceration (Razack, 2000: 97) framed within individualizing discourses of 'choice' and participation in 'criminal' behaviours and lifestyles, these encounters are absorbed back into the same institutional processes that foster and replicate colonial tendencies. The penal apparatus is inserted into those spaces and sites considered 'appropriately Aboriginal', without challenge to the overall legitimacy or colonial ties of such penal and institutional interventions.

[T]he cultural differences approach reinforces an important epistemological cornerstone of imperialism: the colonized possess a series of knowable characteristics and can be studied, known, and managed accordingly by the colonizers whose own complicity remains masked. (Razack, 1998: 10)

Through programs and schemes developed to organize aspects of culture, tradition, and 'community' living and by adopting a corrective language to reflect cultural diversity and difference, penal–based knowledges are made a legitimate, appropriate, and viable recourse. By linking cultural diversity to the penal apparatus and mechanisms of security, a category of 'Aboriginality' remains localized within penal thought and practice. With an intersectional discourse advanced within the individualizing categories, differences are measured within penal processes that configure a 'variety' of women within punitive, treatment, or 'community' frames. Through claims of attending to cultural difference, intervention and integration schemes and programming link Aboriginal cultural and spiritual traditions within the vanguard of corrective operations. Diversity management thus positions the apparatus as a remedy, or at least as owning an ability to lessen, its own colonizing tendencies.
A Throughcare Approach
Emerging from attempts to establish a more consistent and unifying penal knowledge, women’s pathways are advanced within a correctional framework of throughcare — a continuity and consistency of services from women’s entry into the system into post-release:

the provision of seamless service to avoid duplication and/or isolated work practices; sharing of information between the Department and other relevant agencies; promotion of community linkages; provision of consistent interventions across community and custody which are proven to be effective in reducing recidivism. (New South Wales Department of Corrective Services, 2002: 6)

For a ‘seamless’ continuity, part of the throughcare strategy is to ‘map out’ women’s pathways and develop a framework for an integrative case management plan. A throughcare strategy establishes an awareness of women upon their reception into prison and into their release and develops various contact and intervention points. As an ongoing course in corrections, throughcare works in conjunction with various ‘community’ agents and institutions to ‘break the cycle’ of incarceration. The throughcare approach is part of a (re)integration strategy that directs and traces a trajectory for corrective schemes, projects, and programs that seek to make women’s penal management visible and accessible throughout the social and have women actively manage and negotiate their corrective pathway.

Based on the idea that women’s social disadvantage contributes to their participation in the system, an integral aspect of a throughcare approach is the case management strategy that targets ‘criminogenic’ risks by addressing social needs.

Criminogenic risks are comprised of both stable factors such as previous criminal history and education. Criminogenic needs are the dynamic subset of criminogenic risks that, if addressed, reduce the risk of reoffending. Criminogenic needs include factors such as drug and alcohol issues, employment, relationships, accommodation, antisocial associations, mental health issues and attitudes supportive of crime. (NSW Department of Corrective Services, 2007: 4)
For an effective case management strategy that identifies and magnifies needs and make women’s risk more visible, the penal service adopted the internationally accredited Level of Service Inventory-Revised (LSI-R) rating scale. Similar to diagnostic tools used by doctors and physicians (Worrall & Hoy, 2005: 100), this indexing device gauges and targets women’s needs in order to reduce, minimize, or if possible, eliminate risk and threat: “[through] the construction of a profile of the offender’s criminal and social history; [it is a] rating of the risk of reoffending and the dynamic factors associated with that risk” (Drabsch, 2006: 25). Where the LSI initially gauged risk by looking at static factors such as previous convictions, history of violence, age, and gender, the revised LSI (or LSI-R) includes dynamic and more alterable aspects of life such as education, employment, relationships, health concerns, and drug use. In introducing dynamic variables, units of potential are used to gauge levels of risk, viability of success, areas to target, program needs, likelihood of recidivism, and to communicate a highly detailed and specific account of the women.

Maurutto & Hannah-Moffat argue that risk knowledges are made fluid and flexible to accommodate and support a variety of discourses: “risk technologies, far from being monolithic, are constantly being reinvented, retrofitted and reassembled in response to institutional agendas” (2006: 440). An assessment of risk through the inclusion of dynamic social factors also highlights the variability of the penal apparatus itself to accommodate emergent forms of knowledge. This shift from stable categories to the more flexible approaches reflects a shift in penal discourse to consider ways that individuals could be made more alterable and tenable.

An Integrated Management System
Based on a throughcare approach, integrated case management for women provides a ‘holistic’ management approach that delivers continuity in practice from inception to release. With throughcare, practices of release are used to identify and align women’s pathways with overall penal and corrective plans as they are linked to a risk-need inventory and directed through case management. To ensure a more consistent application of throughcare, in 2002–2003 the Offender Integrated Management System

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66 See Hannah-Moffat (2005) for a more detailed overview of these emergent penal trends.
(OIMS) was implemented throughout the penal service; an electronic recording system that details institutional and general information on prisoners and records LSI–R risk/needs assessment together with case management plans (NSW Department of Corrective Services, 2003b: 43) Information on this recording system includes psychiatric assessments, incident reports, treatment plans, post-release programs, interviews with the women and significant others, personal details, and fingerprint number among others. Accessible between departments, it was developed to deliver a more consistent and efficient approach in correctional reform: “[to] ensure that all relevant information about the offenders is gathered, recorded and shared in a timely and effective manner” (NSW Department of Corrective Services, 2002: 4). Through such an elaborate identification mechanism, multiple aspects of the women’s lives are traced and, tied to a case management approach, facilitates more continuous and unified (re)integration strategies.

Throughcare, coordinated with women’s pathways, case management, and identification systems, shapes the possible associations of thought and practice for women in the social. This combined strategy not only traces a trajectory for modes of life, but also assists in aligning other social institutions to penal programs, projects, and knowledge. An explicit application of a penal exercise is not a necessary with a throughcare strategy that promotes and extends continuity and unity between the apparatus and social.

The Department’s principal objectives in this area are: to inform members of the community of matters which are likely to be of interest to them or have an effect upon them; to consult with community groups and stakeholders in the development and delivery of programs and services to offenders; and to provide the opportunity for contact with family and friends to be maintained in order to aid the rehabilitation process. (NSW Department of Corrective Services, 1998: 7)

Carlen (2005: 118) suggests that this trend to a more united and consistent corrective framework has resulted in the appropriation and absorption of organizations into
lucrative partnerships with corrections through the funding of groups who support and employ evidence-based and accredited penal schemes and programs.67

A corrective ordering is invested in specific local sites of operation outside the prison to include various government and non-government organizations that direct women according to their individual needs and case plans. The women's relationship with the social is mediated through various assemblages of corrective networks to supervise, guide, shape, and alleviate the paths they must navigate.

For release, with formal and informal agencies of parole or aftercare mediating transitional points of the social, women are circulated and administered within corrective spheres linked to some of the more common facets of living and 'normal' processes of life (Simon, 1993: 39). "The Department of Corrective Services, in carrying out the sentence directions of the courts and determining an appropriate security classification, has as an objective to assist inmates to adapt to normal community life" (NSW Department of Corrective Services, 2006: [CD version], Part 1). Aspects of women's pathways are addressed and facilitated through social supports, services, and programs that establish women more fully in social and corrective conventions. It is not so much that women themselves or other categories are problematic, but that they lack the appropriate knowledges, responses, and interventions. Failure is considered the result of neglecting to adequately address the various aspects of their pathways.

Linked to other social institutions and knowledges, one of the central tenets of throughcare is to have women made aware of and access designated 'community' services and transitional supports in regard to income, employment, housing, health care, and family. Even those aspects of life considered ancillary to correction such as bank accounts and identification cards become part of a pathways project that offers basic integrative strategies that tie women to normalizing modes and ways of being. These ancillary practices also enhance those identification strategies that advance a

65 For instance, a Community Funding Program was established by the penal service to promote a more integrated and consistent approach to managing individuals on release: "Funded organisations are a key part of the delivery of the Department's Throughcare Strategy. Non-government organisations can be involved in case management processes throughout an offender's sentence period, from entry point into the correctional system to reintegration into the community following release" (NSW Department of Corrective Services, 2004: 62).
knowing and awareness of women that can also facilitate removal. Similar to aftercare, these ancillary aspects of life and more informal social controls and networks serve to address the disparities or gaps in penal applications. Should women be released without the controls and conditions of formal release schemes, a throughcare strategy circulates both women and a knowing of women tied to penal knowledges. Through a broad circulation, corrective schemas are employed and made use of by both the women and social networks, regardless of the nature of the women’s transitional release.

With identifications made around women as a ‘special’ penal group, the social disciplines advance and administer women individually and collectively while the broader identifications and regulations of populations set the women apart for such interventions. While social programs tend to reflect the more restrictive and divisive features of the penal apparatus, these practices are nonetheless promoted as advancing women’s broader social concerns. Emergent penal schemes have ensured an ongoing links within a social–penal nexus that keep penal populations identified and known in and out of various social pockets. Subsuming women’s social character into a pathways approach and security concerns brings practice to the level of the individual while attending to broader social critiques of women’s involvement in the system.

*Active Women and Penal (In)visibilities*

Where earlier classifications and rating systems emphasized security and custody, through a case management approach, new strategies sought to integrate security with women’s social needs. As other authors have argued, this hybrid risk–need formation in penal discourse sees individuals as responsible entrepreneurs who need to regulate their own threats, behaviours, attitudes, and lives (e.g. O’Malley, 1992; Hannah-Moffat, 2004; Pollack & Shaw, 2005). O’Malley further outlines that this formation only includes a consideration of race, class, gender, or other categories inside risk or security concerns (1992: 265). With women targeted as a specific penal category, the apparatus retains and shapes it links with the social through security knowledges generated from social critique.

A penal strategy to integrate women’s social concerns with security risk infuses regulatory and evidence–based approaches with the management of lifestyle as mapped out through women’s pathways. This dual strategy circulates women along broad social
and penal criteria, while ensuring some of the more disciplinary aspects of correction take place. Disciplinary power, in its normalizing features, facilitates the apparatus in supporting its coercive and supportive elements by making them interdependent, if not agreeable. Women on conditional release are enlisted in general and specific programs that overlap and intersect to address both 'criminal' risks and women-specific needs. Such programs include alcohol and drug programs, relapse prevention, dependency and lifestyle, living without violence, personal development, anger and depression management, drink driving, traffic and driver education, life management, living skills, (re)integration and skills training, family relationships and parenting, communication and assertiveness, social and legal issues, responsible living and education, and mentoring. Combining penal interventions with social elements activates women within normal processes, while attending to broader security concerns. Such a combining also has the effect of making a penal knowledge and exercise an indivisible and necessary feature in women's transition.

Focusing on the dynamic and alterable aspects of life, penal logics elaborate and detail accounts of women's corrective ordering. It is not, however, that every aspect of life must be accurately detailed, addressed, or captured, but that women remain known, aware, and active in a diverse and overlapping corrective ordering. Through this approach, penal strategies determine and develop a knowledge of women to promote a more decisive social participation. Such knowledge is disseminated in a way that is made visible and known to the women and others. Mentoring programs, for instance, are a part of a throughcare strategy to ensure a penal continuity and visibility of both the women and penal logics. Mentoring, which is at times sponsored by other prisoners, is a "mutually beneficial relationship which involves a more experienced person helping a less experienced person" (Ross, 2006: 2). This one-on-one approach offers a very intimate expression of women's pathways with mentors acting as social supports with a direct line to penal knowledge. Most often endorsed and supported by penal sponsored agencies, mentors balance a circulation of penal knowledge with perceived social needs. "The sponsor should not allow the ex-offender to become too dependent, but should encourage a mature outlook on life and offer hope, in helping to find solutions to problems such as insecurity and loneliness" (Kidney, 1991: 294). Similar to aftercare projects, peer support and mentoring places emphasis on the experiences of prisoners in order to relate back positive models of living. As an integrative, participatory, and
mutually conditioning process, penal knowledges are positioned to trace and direct women's social involvement.

Women are not only an inert or consenting targets of such practices and programs, but are also elements of its articulation (Foucault, 1980: 98). Women must increase and maximize their own potential or productivity within their everyday lives and lifestyle 'choices'. By combining social and penal elements, it made more difficult to separate women's 'chosen' path, from penal management. Women's 'choices' and goal setting remain embedded in the individualizing logics of penality that focus upon cultural, economic, and social realities as matters of security, protection, and risk. While the regulatory aspects of managing risk facilitates a broader circulation and visibility of penal knowledge and populations, programs and practices maintain the more disciplinary aspects of penality to ensure effective individual navigation. Through a pathways project, the social is linked to the disciplinary, regulatory, and more punitive projects of correction, while making multiple aspects of life and labour visible and modifiable.

Within the fluid, intersectional, and dynamic forms of the penal apparatus, release practices shift and slide between broader security concerns and women's pathways as part of a (re)integration strategy. With a concern with both women's needs and risks, penal knowledge is aligned with broader social concerns without contradicting the legitimacy of its exercise. The effect of combining these elements makes its contradictory elements agreeable and practicable. Given the diversity and variety of women's correctional paths, it is here that women are considered to be engaged in an open-ended struggle outside the prison with ongoing commitments to themselves and others.

'Community' Correction

Penality alone can not address all aspects of life to promote optimum models of the good and requires some of the supports and interventions that a combined effect of social agencies and aftercare modeling can provide. Along women's pathways, networks of corrective intervention are organized in a similar fashion to create hierarchies of women's social needs and risks and to promote a certain awareness and mode of being. Deleuze suggests that "[t]he family, the school, the army, the factory are no longer the distinct analogical spaces that converge towards the prison, but are rather discrete
spaces that need to be worked upon" (1992a: 3). This ensures more continuity in a penal application, despite a lack of formal coordination, and one that often prioritizes security concerns.

Social disciplines and institutions are linked to the apparatus and established in such a way that they are utilized with or without formal release schemes and, as discrete spaces, allow penalty to move in and out of their operations. In 2003–2004, the Women’s Command Unit of the penal service consulted with and established partnerships with multiple and diverse government and non–government agencies. These partnerships, among others, include the Office of the Department of Women, Western Sydney Area Health Services, Job Futures, Life Line Financial Counselling, Muru Mittigar Aboriginal Cultural Center, Aboriginal Mentor Training Program, Yulawirr, Salvation Army, NSW Housing, Tharawal Community Elders, Corporation for Homeless and Rehabilitation Community Service, NSW Link–up, NSW Aboriginal Women’s Legal Service, CRC Justice Support, Prison Fellowship/KAIROS, and the Federal Attorney General’s Department (see NSW Department of Corrective Services, 2004: 57). These overlapping services address multiple needs while simultaneously create multiple points and intersections of penal intervention inclusive of gender, culture, and other categories.

Various normalizing and responsibilizing techniques and strategies are deployed through and between multiple spaces, institutions, and agencies as sites of management, correction, and support. As noted in the penal service’s Strategic Framework,

[ex]it from custody should be planned in such a way that all relevant supports and access to services are coordinated to promote positive participation of women in the community. (NSW Department of Corrective Services, 2004: 11)

Combining social knowledge and resources with penal measures ensures that a more effective and consistent delivery of correction is made possible. Through women’s pathways, a more fluid targeting of the women throughout the social body is facilitated by networks and agents aligned with penal knowledge and that assist in identifying points of intervention. With these knowledge investments, provisional resources in the
social are not a necessity, but rather a possibility should the economic or political conditions favour these measures and interventions. As specific penal knowledges flow and shift throughout the social and between sites and institutions a penal knowing of women is not only facilitated, but made more difficult to challenge as they are aligned with a broader social functioning that prioritizes health, strength, and security.

**Penal Experts and Deskilled Social Fields**

A throughcare approach invests penal knowledge in non-penal sites and more general forms of social support. Throughcare seeks to ensure that social agencies are aligned with penal thought and practice while the apparatus itself determines and directs a knowledge and knowing of the women. This shifts a responsibility and practice to more localized spaces and institutions that can attend to women’s needs and requirements through corrective arrangements. In so doing, women are tied to diverse pathways invested in penal knowledge as the more specialized practices initially developed with aftercare are now extended to other social institutions and agencies. With throughcare, women are circulated through sites of health, social services, housing and the like, while aftercare and parole facilitate and assist such a circulation.

The twin governmental strategy of throughcare and aftercare embodies efforts to draw in public service provisions and link specialized and non-penal sites to the apparatus (Crawford, 1997: 81). Non-state or informal technologies such as families, employers, self-help groups, and mentors who are organized around penal knowledge are utilized to further support, reaffirm, and strengthen a corrective shaping throughout the social. Expanding on non-penal ‘community’ supports and services, parole or aftercare agents circulate and broker a pathways approach. By establishing an intermediary step between evidence-based penal applications and a more general social functioning, ties are more thoroughly established between penal discourses of risk and social needs.

The scientific and psycho-analytical approaches common to the prison (see Fox, 1999, Kendall, 2000, 2002) are advanced to multiple hosts and sites with ‘service delivery’ available from a strata of lay people, institutions, or professionals from other social arenas. Establishing specific knowledge brokers and dividing up and fragmenting the social field along specialized services ensure that no one group or institution is an expert in the various aspects of the correctional lives of the women. Through a pathways
approach, women remain a problem for penality. Although throughcare in its expansive and far-reaching approach is more discursive or diluted, it also maintains a broad penal legitimacy through a divisive strategy that segments social sites. A more broad-based network of support not only enhances the circulation of a specific penal knowledge, but also ensures a risk-need dynamic is specialized to and remains a privileged knowledge of the penal apparatus.

As part of a security mechanism, throughcare facilitates the removal of women as they become increasingly invested in social sites tied to penal operations. Through the well established identification systems and strategies that have been in refinement since the ticket-of-leave scheme, the requirements for women on release are more easily discerned within social networks and by ‘community’ agents who administer the appropriate knowledges accordingly. Given the priority of security, women’s involvement with social facilities and programs affords a certain ongoing level of awareness of their participation in the social and ties. With a greater degree of visibility throughout specific social sites, removal strategies are thus facilitated should a lack of participation or conditional breaches occur or when conduct threatens a social order or perceived good. The complex and diverse social variables attached to corrective women offer multiple points for identification, intervention, and removal.

With penal knowledge both generating from and invested in the social, women are scaled through a system that privileges those who are best aligned with penal thought and practice. By prioritizing penal knowledge through such hierarchal schemes, the legitimacy of social services and programs are based on their ability to address penal issues and concerns. Linking women’s physical, social, cultural, and spiritual worlds to a ‘corrective community’, maintains a penal knowledge intact with a sight on women to remain at least stable.

Corrective But Not Necessarily Transformative

In conjunction with throughcare, the penal service also adopted an integrated and tailored service of ‘floating-care’: “floating-care provides a more accessible, consistent and ‘human’ point of service delivery for the ex-prisoner [and] provides improved specialist resources, and a safety net of service providers” (Borzycki & Baldry, 2003: 3). Drawing on women’s pathways, floating-care addresses the relevant services and
programs identified for individual women through a multitude of quasi-contractual and quasi-voluntary collectivities (Rose, 1996b; O’Malley, 1996). ‘Community’ services and networks take on ‘shared responsibilities’ to reduce correctional budgets, enhance safety, and circulate penal knowledges (see also Maidment, 2007). Support and access to services are coordinated in a manner that is not so much to ensure an availability of resources as it is to promote a certain awareness and active participation of women in the social. It is not, therefore, the provision and delivery of penal services themselves that is so much the concern, but rather a capacity to integrate, support, and deliver penal knowledges into their practices. Given this type of arrangement with the social, while transformation is desirable it is not essential with services organized more as privileges or individual responsibilities rather than a necessity.

With corrective projects, discourses, strategies, or programs brokered through penal agents and affiliates, women must align themselves with those discourse mapped out through pathways. A failure to adequately avail themselves of specific services or meet the conditions of release suggests an individual inability, unwillingness or lack of commitment to attain a happier, healthier, and wealthier state (Lynch, M, 2000) that warrants penal intervention. On the other hand, when the resources for women are limited, inaccessible, or inconsistent (Drabsch, 2006: 197), part of a floating-care strategy is acknowledging that not all needs can be met or provided by the penal service (NSW Department of Corrective Services, 2002). The women are thus directed to corrective sites and remain the primary agent in their own corrective management.

The resources most often made available address social concerns in terms of the risk-need dynamic. For example, ‘community’ corrections have been challenged as being “seriously flawed by lack of clarity about its purpose and difficulty in allocating appropriate resources ... liaison is incomplete, planning is superficial except in priority cases, and current resources do not encourage the intended degree of collaboration” (Maguire & Raynor, 1997: 11). As noted in Chapter IV, such criticisms are directed at the level of penality that points to a failure on the part of the penal service to generate services and supports that will attend to a risk-need dynamic.

[O]ffender rehabilitation programs are less developed in Community Corrections. This can be attributed largely to the recency of offender
programming initiatives, resource limitations, the greater diversity, in terms of sanction and risk, and thus the prioritization of custodial environments. (Howells et al. 2004: 8)

These particularly include core programs that reflect the prisons' cognitive development and psycho-analytical programs that work to individualize risk concerns. Services least available are those in areas linked more directly to immediate living concerns such as health and dental needs, affordable housing, full time employment, ongoing mental health resources, and other more long term provisions (NSW Women Prisoner Advocacy, pers. comm. 2007); those services and resources shifted to an aftercare function. Sites invested in more transformative practices are given less emphasis than those that promote regulative and security arrangements.

Within a floating correctional field, services and resources are employed more sporadically and made available when intervention or assistance is deserved, mandated, or legislated. Quoting Deleuze, floating-care acts as “a self-deforming cast that will continuously change from one moment to the other, or like a sieve whose mesh will transmute from point to point” (1992a: 6). As a floating model, services and resources need not necessarily exist in a state of permanency where social sites and agents remodel, modify, or terminate partnerships and responsibilities with the apparatus. Given the emphasis on security and corrective management, release without such support is not problematic in so far as a floating-care exists and is made available through some of the more local resources; from shelters, to methadone clinics, to AA meetings, personal spaces of management and correction are supported when the appropriate circumstances or conduits arise. With a throughcare approach, the apparatus develops far-reaching collaborative arrangements with more of an appearance of, than actual service provision, while floating-care offers penalty flexibility and fluidity.

Challenges to ineffective or inadequate services often further advance a penal necessity. Lack of fiscal resources, lack of research, and a lack of programs are equated with a failure to address women's social needs, and with supports, services, and resources tied to risk and 'criminogenic' factors, the availability of support remains embedded in corrective logics and discourse. Integration, for instance, is considered best facilitated
when women are released conditionally and on a formal release schemes (Select Committee on the Increase in Prisoner Population, 2001). Emphasis and priority are given to the penal apparatus to identify, develop, and structure the necessary social supports and tied to penal operations and knowledge. Through this arrangement, penal knowledge continues to inform and shape a discourse of the women and how the women are to understand themselves. As the women seek counsel and support throughout the various institutions, agencies, and individuals within a corrective 'community', a penal logic is further circulated and continues to pass through the women at various points and times. The more the women's lives remain identified or linked to the risk-need dynamic, the closer the penal apparatus passes.

Conclusion
With the help of throughcare, aftercare, floating-care, and the other penal schemes and strategies, various aspects of the women's lives are circulated and targeted as points for penal intervention and correction. For women, the link established between penal management and gender categories has been central in shaping such a corrective ordering. Where earlier penal measures mostly regulated women within gender-blind or gender neutral terms (Bloom, Owen & Covington, 2004; see also Chapter IV), taken up through feminist and social critique, a notion of women's pathways emerged to manage women not as a male equivalent, but through a decisive ordering of gender, culture, and other penal categories. With an emphasis on social disadvantage, penal thought and practices were widely dispersed throughout existing social and other penal networks and broadened a corrective scope to other arenas and problem categories, such as Aboriginal women. By linking social and feminist critique with penal knowledge, women's social concerns emerged as both an instrument and measure of their corrective ordering through a risk-need dynamic.

Newly formed risk/needs categorizations and subsequent management strategies give rise to a new politics of punishment, in which different risk/needs groupings compete for limited resources, discredit collective group claims to resources, redistribute responsibilities for risk/needs management and legitimate both inclusive and exclusionary penal strategies. (Hannah-Moffat, 2005: 31)
An expansive application of corrections is advanced with the penal apparatus as a privileged source of knowledge informed by and invested in the social. Facilitated through existing identifications and networks informed by penal knowledge, women's social disadvantage, characterized through needs and risks, is made both the object and instrument of intervention.

Rather than regulating women through a space of enclosure, within 'community', women are the surface of emergence with floating penal arrangements and corrective strategies elaborately interwoven into the micro–arenas of the women’s lives. Within such micro–sites, women are the primary resource in their own corrective management as they navigate ‘community’ and corrective spaces. In prioritizing penal knowledge and intervention with service provision and delivery, the social is adapted to corrective formations with workers, institutions, and agents increasingly invested in security and penal discourse. Identification strategies also remain a critical component of a corrective framework as they reveal the corrective path to be followed and facilitate removal strategies. Women are broadly linked to social, political, and corrective formations that offer both a specific and expansive ‘knowing’. Although a consortium of social institutions, agencies, and groups assist women in determining and addressing their paths, the disparate and fragmented arrangements do not necessitate such assistance. Penal practices and tendencies have the effect of maintaining women within correctional domains, whose lives must not necessarily be improved, but managed, delimited, or removed.
Chapter VI

Women of Privilege:
Cultivating the Correctional Subject

When I fed the poor, they called me a saint.
When I asked why the poor had no food,
they called me a communist.
Dom Helder Camara

Freedom is nothing
but the correlative deployment
of apparatuses of security.
Foucault, 2007: 48

With an array of identified social disadvantages and challenges faced by women in the penal system, social and feminist critiques advance arguments for non-punitive and facilitative interventions. Reflected in recommendations made by the Select Committee on the Increase in Prisoner Population, this is also for the women to better cope with and manage the various aspects of their lives better: “[for] women who commit non-violent offences in particular, [the committee] considers that community-based alternatives can be more effective in allowing a woman offender to address and manage her behaviour and to cease offending” (2000: xx). As noted in the last chapter, to assist in and enable such integration, transitional frameworks use women’s pathways as the forming criteria for corrective intervention. Women are encouraged and coerced to participate in the various programs and living arrangements considered necessary to address and minimize social threats and alleviate personal hardship. Given this, release from prison is often presented as a dangerous enterprise for women (Severance, 2004: 94), a matter of survival, endurance, adaptation, or “making it in the free world” (O’Brien, 2001b). With women’s social disadvantage related to their potential to survive prison release, freedom is not so much a ‘freedom from’ such as seen with the ticket-of-leave, but a ‘freedom through’ penalty, offered within those corrective spaces of a social-penal nexus.

Linked to technologies of freedom that use penal thought and practice as its criteria and conditions, corrective logic draws on everyday social formations to structure the penal management of women, while the social is shaped along problem areas where multiple
'criminogenic' possibilities are considered to exist. By aligning themselves with the appropriate supports, services, and discourses, women on release are both the site and transfer of penal knowledge: “the body in subjection becomes the occasion and condition of its productivity” (Butler, 2004: 187). Women, as both objects and instruments in a penal exercise, are delimited by the fields and lines of force of an apparatus that intersect with social and security formations to shape women’s corrective lives. Set alongside a narrative of pathways, it is within fields and codes of instability and vulnerability that the women’s corrective selves are administered. The women’s ability to ‘succeed’ depends upon modes of freedom and subjectivity that link personal goals and desires to social norms and stability. Women’s freedom is thus offered through an active acceptance and involvement in corrective pathways to cope, adapt, and survive the outside world. I argue here that penal release, tied to a notion of freedom, is organized to ensure a specific development of corrective subjectivities.

Subjectivity, understood as “the way in which the individual establishes [her] relation to rule and recognizes [herself] as obliged to put it into practice” (Foucault, 1986 [1990]: 27), is located not only within mechanisms of security and discipline, but also with technologies of the self linked to broader social and penal discourses. Within ‘criminal’ titles, women are not only responsible to act in ‘non-criminal’ or ‘pro-social’ ways, but as part of a release strategy, are responsible to their communities, their families, their children, and to themselves. Linked to multiple social contingencies, women’s corrective management is tied to their lifestyles and turned into an ability or capacity to negotiate relations with themselves and others. With a fluid and flexible form, the apparatus shifts and balances penal knowledge with other social formations to promote both individualizing and totalizing effects as a way of involving women more fully in their correction. Allied with notions of transitions, safety, stability, vulnerability, transition, freedom, and the like, multiple and complex relations and strategies are established to develop a more definitive shaping and knowing of the women. It is also, however, within such multiplicities that tensions and competing arrangements generate emergent forms of counter-conducts as women resist their corrective and subjective managements.

In considering women’s release in broader terms of a penal (and security/social) apparatus, I consider processes of subjectivity with reference to what Deleuze suggests are three interlinking elements of an apparatus — knowledge, power, and subjectivity:
“a line of subjectification is a process, a production of subjectivity in a social apparatus [dispositif]: it has to be made, inasmuch as the apparatus allows it to come into being or makes it possible” (1992b: 161). As a heterogeneous ensemble invested in the ordering of human multiplicities, subjectivities are produced, defined, and renegotiated over time and through individuals and various institutions and systems of thought that exist within spaces of productivity and constraint. “[It is] the machinery by which the power relations give rise to a possible corpus of knowledge, and [where] knowledge extends and reinforces the effects of this power” (Foucault, 1977 [1995]: 29). It is through the apparatus and its attendant features that women are to (re)organize themselves within multiple spaces of a corrective transition.

Through the apparatus, it is not necessarily women’s transformation that is sought, but a shift in dependencies from social vulnerabilities and instabilities to a participation in sponsored penal arrangements that reinforce what constitutes knowledge and legitimate practice. The further removed from a visible path of penal dependencies and social vulnerabilities, the less prominent the role of the penal apparatus as other social functions take its place. Release from prison then does not constitute a release from the apparatus, but through its features women are to eventually emerge more as correctional and self-regulated bodies. Should the necessary alignments not take place, the well-established identification systems developed throughout the carceral archipelago facilitate and legitimate women’s removal or elimination from the social through prison and/or death.

Within this social–penal nexus, women are maintained within a corrective ordering that facilitates removal and heightens a potential for elimination. While the more disciplinary and bio-political facets of penality work on individuals and populations, sovereign or despotic interventions surface to remove those who fail, refuse, or cannot manage, cope, or adapt. As the Select Committee on the Increase in Prisoner Population also outlines: “prison is the only realistic alternative for some female offenders” (2000: Press Release, 19 July). The prison and penal interventions are not

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According to Deleuze, the apparatus consists of the following elements: “lines of visibility and enunciation, lines of force, lines of subjectification, lines of splitting, breakage, fracture, all of which criss-cross and mingle together, some lines reproducing and giving rise to others, by means of variations or even changes in the way they are grouped” (1992b: 162; see also Glossary).
always heightened for those women who are least able to navigate a 'positive' transition, but are also, at times, removed from a social functioning to shape a space that facilitates elimination through death. For women, where the corrective requirements are not sought out or do not take effect, practices take place and spaces emerge to facilitate certain kinds of removals and, at times, eliminations. For this chapter, I examine the subjective formation of women in transition from prison and the paths they are to navigate as vitalized and shaped by the apparatus. This begins with how social and penal categories and criteria intersect and shape an understanding of women and a notion of freedom that regulates women’s subjectivities within projects of emancipation. I also examine the removal and elimination strategies and sites that have taken shape within the discourses of a penal and social nexus when the desired correctional and subjectifying effects are countered or do not take hold.

**Points of Intervention and Subjectifying Freedom**

(Re)integration is seen as a dynamic process with multiple paths for the women to negotiate (Harm & Phillips, 2001). Given the variety of possibilities, ‘community’ engagements and a network of obligations are established for release to prepare women for a perceived healthy, active, and productive life. As discussed in previous chapters, for this to occur, women are made known and ordered at specific and general identification points. This is achieved in multiple ways such as through identity records like Medicare cards, proof of age cards, electoral enrollment cards, licences, birth certificates, passports, and tax file numbers; through social programs such as crisis and benefit (Centerlink) payments, emergency or crisis accommodation, health services, pharmaceutical benefit schemes, residence and affordable housing programs, methadone programs, and counselling programs; and other social amenities such as bank accounts, phone lines, utilities, rental and employment references, family allowances and payments, employment and educational training, food vouchers/parcels, and provision of goods access to clothing, blankets, furniture, and electrical goods. It is also achieved through the more penal related or sponsored services and programs such as probation and parole offices, legal aid, and assistance groups and programs. While these social amenities exist, as discussed in Chapter V, some are only made necessary or available given political and economic climates and the levels of deservedness the women exhibit by navigating the 'right' path.
Identifications intersect between spaces specific to women and gender arrangements, everyday routines and lifestyles, and penal and security concerns. These distinct and overlapping points of access and intervention are a part of the transition of women that have the effect of making women known and active throughout the social. Social access is mediated through penal, security and social apparatuses that foster or hinder women's participation. For instance, without a formal address, women are unable to acquire various identity cards or bank accounts; the less stable the woman, the least likely she is to secure housing (NSW Women Prisoner Advocacy, pers. comm. 2007). Entry points into the social, mediated through aftercare projects and supports, are used to link aspects of life to overall penal schemes and knowledges of women that shape, limit, and enhance their lives. Directed throughout the carceral archipelago, women's social advancement or freedom is structured by how well they can navigate these multiple identifications points, spaces, and elements of the social. In this way, freedom for women from the system takes on a very specific form; one that replaces a notion of 'freedom from' with a 'freedom through' penal operations.

The Privilege of Correction

With the various identifications and categories developed throughout the social and linked to penal and correctional schemes, women from prison are contemplated within a social-penal nexus. Through this dual strategy, women's 'criminal' titles along with other configurations such as 'anti-social', 'unadjusted', or 'unstable' inform a discourse on overcoming social vulnerabilities and instabilities. With social directions and release arrangements organized around women's pathways to 'crime', the penal apparatus seeks to balance social threats or risks with social needs.

Within a social–penal nexus, women are perceived as existing in the general domains of instability and vulnerability. For instance, women in the system are defined through terms such as pathological liars, manipulative, abused, needy, aggressive, disadvantaged, unfortunate, conniving, complex, intimidated, vulnerable, and cunning (Shaw, 2000). Within such references, gender and 'criminal' titles intersect to fashion an understanding of women as deprived and dangerous; vulnerable and unstable. Focus here is on forms of gender deviance and acts of transgression as a combination of women's social threat and social need that reflect an excess of character and a certain indulgence in social disadvantage. Women in the system are considered to have
experienced the social in a way that has diminished particular social capacitates and heightened a potential for transgression; they are too much women — too much emotional behaviour, too much deviance, too much self-medicating, or too difficult, among others. As mentioned in the previous chapter, women in the system are more commonly considered ‘harder to handle’ and more resistant to correctional regime and instruction (see also Snider, 2003). Considered as existing within a certain form and experience of excess, women are contemplated as acting in both diminished and destructive capacities. This dual strategy addresses both social disadvantage and threat by conceiving a character of women as passive and active; victims and transgressors.

By combining women’s social categories of pathways with the social threats they present, women’s social capacities, aptitudes, or deficits are conflated with their ‘offence-related’ behaviours. According to the penal service, the purpose of release programs and supports are to

provide opportunities for offenders to acquire insights and skills so as to positively address deficits or addictions associated with offending behaviour, and to assist in safely and effectively managing offenders whilst enforcing the orders of the court and discharging the department’s duty of care. (NSW Department of Corrective Services, 2001a: 2; emphasis added)

Penal programs and strategies seek to alter behaviours to curtail excesses of character and indulgences in anti-social and or ‘criminal’ lifestyles and re-shifting dependencies. As discussed previously, women are encouraged or coerced to participate in those core programs that address dependencies and anti-social thoughts and lifestyles such as through relapse prevention programs that focus on preventing drug dependent lifestyles; living without violence programs that teach skills to resolve relationships and personal issues without resorting to or living with violence; personal development programs that target individual, social, and legal issues to assist with personal development; and anger and aggression programs where women are taught to avoid anti-social behaviours and to deal with their anger. Framed within notions of dependence and as a course of lifestyle, women are invested in those responsibilizing discourses (Hannah-Moffat, 2005) while
addressing social disadvantage emerges as a self-forming problem linked to discourses of victimization, poverty, addiction, and the like (see also Smiley, 2001; McCorkel, 2004).

Within a social–penal nexus, strategies are combined to promote lifestyles and character to enhance, limit, and curb conducts. Linked to their social disadvantage, women are considered as existing in states or lifestyles of dependence and excess, be it on social services, drugs, family, partners, welfare, and the like. Valverde, in reviewing Foucault’s recently published lectures, suggests that such subjectifying practices create a sense of debt, obligation, or loyalty to those who provide guidance, support, resources, surveillance, and the like (2007: 165); those who are best positioned to mediate social access points.

Inmates have their behaviour reinforced through a series of positive and negative measures, for example the gaining or losing of privileges or their level of classification ... The [case] file is used by the system to provide information about and evidence of the inmate’s progress in addressing their offending behaviour and their suitability for access to programs, services and privileges. (Coulter, 1999: 13; 17)

With women negotiated within sites of dependence, levels of deservedness are also emphasized as women actively navigate their individual excesses and vulnerabilities by participating in programs and social norms such as securing housing and opening bank accounts. Women’s levels of deservedness increase as they discard, reduce, or reorganize dependencies to other spheres, with priority given to those who align and avail themselves of the necessary social lifestyles and effectively navigate corrective intervention points. Whether or not the women subscribe to such penal knowledges, to act against its obligations is to risk losing access to whatever amenities and supports have been made available and heightens potentials for removal or elimination. By operating within a framework of deservedness, it is made increasingly difficult to consider a departure from prison as something other than individual challenge, struggle, and privilege.

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While there exist possibilities for support or assistance, penal release is shaped as part of a privileging system that seeks to align subjectivities with programs of social stability: "Effective intervention can best assist offenders to make appropriate changes and thereby significantly reduce the likelihood of re-offending thereby contributing to a safer community" (NSW Department of Corrective Services, 2006 [CD version]: section 32). These corrective tendencies are part of those strategies that place emphasis on the individual to change not in spite of broader social conditions or disadvantages, but in light of and with reference to them. Accorded with a very specific character with attendant obligations and privileges, women must actively balance their correctional selves between and within social and penal sites and arrangements.

Targeting Lifestyles and Living Arrangements

Between the prison and the social, spaces and conducts are demarcated as sites and points of intervention to establish a circulation of women that will reduce or shift levels of dependency. Hot spots, 'criminal' associations, and relapse zones, for example, emerge as spaces and arrangements that reflect sites of instability or vulnerability. What are ordinarily considered everyday forms of life, within a social–penal nexus, they emerge as sites and points of correction. With the more hidden aspects of penality integrated into everyday arrangements, the spaces between penalty and living spheres both restrict and compel participation and confuse the productive aspects of release with its more coercive forms. Lifestyles and living arrangements emerge as indicators of dependency and instability and are used to regulate, shape, and enhance social participation and certain modes of being.

Discourses of both inclusion and exclusion circulate women throughout the social in both productive and restrictive ways. Within a penal discourse, for instance, the bonds women have with their children are considered to have both a civilizing and rehabilitative effect on women (Barraud, 2007). Alternatively, women in the system are also conceived as transmitters of corruptive influences who can pass on drug related

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70 To promote parental bonds, section 26(2) of the Crimes (Administration of Sentences) Act 1999 states that "any prisoner may, in accordance with a permit granted to the prisoner by the Commissioner, be permitted to be absent from a prison, on such conditions as may be prescribed and such conditions as may be specified in the permit, for a period, being: (1) In the case of a female prisoner who is the mother of a young child or young children, for the purpose of enabling the prisoner to serve her sentence with her child or children in an appropriate environment determined by the Commissioner — such period may be specified in the permit". This option is, however, rarely employed.
trauma or drug use to their children (Campbell, 1999; Johnson, 2006). “Programs aimed at supporting the children and families of prisoners and at building offenders’ parenting skills should also be incorporated to minimize the probability of continuing a cycle of offending across generations” (Borzycki & Baldry, 2003: 2). Women’s lifestyles and living arrangements are used as indicators of instability to restrict participation, while simultaneously used to promote conformity and shift regulation to other multiple and overlapping areas of the women’s lives such as with family, children, employment, and education. By confusing the boundaries between social and penal thought and practice as a way to both regulate and shift dependencies to other spheres of life, the penal apparatus moves in and out of social spaces and shape modes of living in both restrictive and productive ways.

Where the social in its own formations has been insufficient to enhance an active participation and conformity, a social–penal nexus ensures women participate in broader social and economic modes of life, now designated as very specific correctional sites. Living arrangements and accommodation, for instance, are shaped within overlapping social and penal arrangements: “links between homelessness and offending suggest that decent and secure housing plays a vital part in the resettlement process and in reducing the likelihood of people committing crime” (Dutreix, 2000: 2). Confusing and combining dimensions of living with correction encourages and coerces a social participation, while correctional schemes attend to the limits of the social in shaping such conduct.

Points of identification and release plans serve to make the women and others aware of their corrective management. This is achieved through detailed and intimate assessments of release arrangements, including interviews with the women and others such as case workers, employers, and family members.

Every case plan should set out the frequency of reporting obligations, home field visits, contact with significant others, contact with treatment, professional and program providers etc. (NSW, Department of Corrective Services, 2006 [CD version]: section 1.16.8)
Release plans also include compulsory supervisions, attendance of programs, urinalysis testing, and home and work visits from parole officers. Both the women and others are not only made active in their own transition, but are further immersed into corrective lifestyles that set them apart from everyday modes of living. For example, although transitional centers and halfway houses remove the more visible security barriers such gates and fences, distinctions continue to exist to demarcate and distinguish women from ‘normal’ social processes. At the Parramatta Transitional Center staff carry duress alarms, conduct urinalysis and breath tests, carry out room, bag, and pat searches, and do field checks in the ‘community’. Within coercive and corrective adaptations employed with transitional schemes, women are reproduced within the folds of penal and social formations that simultaneously locate and dislocate their being in the world. With women active and activated in this way, the less visible penal arrangements distribute more consistent and ongoing corrective subject formations.

In addition to shaping lifestyles, stabilizing strategies are also linked to other categories of women, such as with Aboriginal women, women with substance abuse concerns, and/or women with mental health considerations. Linking in multiple categories to a correctional framework opens up other diverse possibilities for knowing and shaping women. By focusing on multiple instabilities and vulnerabilities, women are regulated around norms of conduct but in unconventional or unsocial ways (see also Blackman, 1996, 2007). Mental health strategies, for instance, are organized around intersectional risks such as by providing short-term supported diversion accommodation at Bay Cottage that is designed to support women who are dually diagnosed with mental or intellectual concerns and drug problems. Mental health strategies thus straddle and mix social norms with penal logics:

[they are] designed to assist parolees with mental health issues and/or intellectual disability requiring accommodation and support services to lead normal, lawful community lives, participate in community life, maintain successful tenancies and abide by the conditions of their parole orders. (NSW Department of Corrective Services, 2007: 3)

(Re)integrative strategies do not completely invest women into normal social categories. Women exist within and between social and penal sites based on their transitional and
(re)integrative potential. Women are contemplated in discourses that encourage them to visit and revisit a variety of points of their corrective, correcting, or corrected selves at different points and times and when the needs and risks arise: “they must be constantly in search of themselves and, ironically enough, so that they perpetually fail the criteria set for them and thus need ceaseless effort and re-examination, re-immersion in that which forms them” (Gruber, 1989: 617). With the multiple and compounding points of intervention, a complete transformation is not necessarily sought as women remain linked to multiple ‘criminogenic’ potentials (see also Chapter V). Neither must women necessarily meet all requirements, but to identify and touch upon as many intersecting social and penal categories as possible.

Within a corrective framework, women exist within multiple potentials of recidivism, relapse, or reversion that can be identified and referenced back to penal logics. Women are fashioned within a social–penal nexus so that they remain vigilant of their liminal potentials for productive and destructive capactiates throughout and beyond their involvement with the system. With ongoing reference to multiple and compounding social instabilities and vulnerabilities, women remain, in various social and subjective ways, within penal and corrective canons. Revisiting points of correction, as Gruber (1989) further notes, is the sought effect, and not an attempt to discover a potential waiting to be emancipated.

**Correctional Models of Emancipation**

Processes and practices of release are designed to align women with those discourses, supports, or resources that promote desirable traits and modes of living. To know oneself in accordance with the truths prescribed through corrective management is to minimize individual instabilities and vulnerabilities identified as emerging from the social. With such categories and criteria introduced through classifications, case management, and programs, correction promotes a detailed knowing of the women who are to achieve both agency and obedience through supports, surveillances, privileges, and enforcements among others. Whether released with or without formal interventions such as parole, women are primarily made active and aware of the criteria necessary for their corrective integration. If the amenities and services do not exist or are only sporadically employed, the strategies in place from the onset of the women’s involvement with the penal system nonetheless direct a path to be navigated.
It is within the social that women's self-formation is most vital and productive as it is here that their instability and vulnerability are located. Where the prison establishes the boundaries and modes for thought and practice, a return to the social requires that the women self-identify, monitor, and regulate. With the social as both the terrain and limit for corrective management, subjectifying strategies and self-formations are germane in advancing correction. Within the penal apparatus, women are encouraged to contemplate bodily, mental, and intellectual functions as they are made aware of their responses to social adversity and challenge. For the government of women, it is not only to obey and observe rules and regulations, but to produce an inner truth of their correctional selves. It is through the hierarchical arrangements, divisions, and examinations that voicing and freeing the truth of oneself is shaped (Foucault, 1997a: 183).

Knowing and publishing a truth of oneself emerges with a Christian hermeneutics for deciphering inner thoughts and discovering hidden truths. Foucault argues that, as part of a pastoral power, the obligation to confess is now relayed through so many different points that it is no longer considered as an effect of a particular power that shapes and constrains being, but rather an inherent part of who we are: “it seems to us that truth, lodged in our most secret nature, demands only to surface” (Foucault, 1978 [1980]: 60). Offered through a variety of cultural, political, economic, scientific, bureaucratic, and legal forms within a social-penal nexus, confession has been an important and formative corrective strategy to manage women and shape subjectivities. Through a Christian ethic of pastoral power, women are to know and to constitute themselves according to very specific criteria and schemes and to reveal such aspects of their being to themselves and others.

Where a Christian ethic remains a significant artifact of power in the lives of women in and out of penal management, it is through various identification systems, case managements, risk assessments, psychological evaluations, classification schemes, and release programs, that deficiencies, instabilities, and vulnerabilities for correction and self-improvement are revealed. As ethical subjects, women are to consider 'the self' as something that needs to be worked upon and cultivated through the corrective strategies offered. A project of 'emancipation', articulated in the form of 'empowerment'
and 'giving voice', have become part of a larger corrective strategy of pastoral power for women to discover the truth of their selves and to reveal such truth to others.

'Empowering' a Strategy of Freedom
Barbara Cruikshank states that “the political logics and techniques of empowerment that developed in social programs and reform movements produced a technology of citizenship” (1999: 67; emphasis added) that encourages and enforces very specific forms of political and social participation. Other authors have discussed the relevance of ‘empowerment’ strategies in women’s prisons as part of those individualizing strategies that de-politicize feminist concerns, de-responsibilize the state, and put emphasis on women’s choices and relations (e.g. Young, 1996; Hannah-Moffat, 2000; McCorkel, 2004; Pollack & Shaw, 2005). An ‘empowerment’ approach, as defined by the penal service,

is basically a social development approach [that] looks not only at simplistic unicausal explanations, but at the offender as a “person-in–environment”, i.e., one in a dynamic relationship with their environment and prescribed roles in varied social situations. It assumes an interdependence of relationships between the parts (the offender and his/her family) and the whole (community and society). (Andrews 1999: 285)

Through a corrective emancipation strategy of ‘empowerment’, women’s social worlds are not only used to model their correctional management, but are also used to have the women active in shaping its formation.

Penal release, organized in terms of a ‘freedom through’, is meant to produce active, aware, and self-directing agents. With an approach to make women active in their own corrective transition and arrangements, an ‘empowerment’ strategy seeks to reduce penal or state involvement and shift dependencies back onto the women. In NSW, for example, the penal service reports that residential pre-release facilities for women employ case management with frequent staff–client contacts that ‘empower’ women to gain control (Lynch, C, 2000). In these facilities, women are provided with the ‘opportunity’ and ‘privilege’ of being assisted with the management of their personal
finances, their daily lives, and residential contact with children so that they can effectively navigate their individual lives. Similarly, the NSW ThinkFirst program addresses thinking deficits and improves cognitive skills by addressing problems women have with making and communicating appropriate decisions (NSW Department of Corrective Services, 2004: 53). Despite the broader systemic disadvantages experienced by women, emphasis is placed on how the women are to actively navigate their personal thoughts and worlds and those aspects of life that make the individual responsible for her own (re)integration. This has the effect of rendering the women more governable as they subscribe to those individualizing activities that remove a need to make any significant or large scale social adjustments, while at the same time attending to the social circumstances of dispossession and subsequent penal ‘participation’. Through a notion of ‘empowerment’, a link is thus tightly woven between the social contexts of the women’s lives and an individual responsibility to attenuate their personal existence.

Women are ‘empowered’ in their social worlds to develop a relationship with themselves that will facilitate making the ‘right choices’. For instance, a focus on women at the level of cognition (true/false) and normative judgments (right/wrong), make use of social participation and ‘choices’ as reflective of an ability and willingness to change or adapt. The more women can identify with and articulate how they choose ‘criminal’ behaviours and respond to their social worlds, the more capable they are to expel unhealthy thoughts, attitudes, and conducts, and the better they can navigate a path of freedom. Although women are discerned within broader social, political, or economic influences, by shifting the locus of agency to women’s reason and will, ‘empowerment’ is a matter of mediating social and personal hardship through penal interventions and knowledge.

A strategy of ‘empowerment’ shapes and conditions women’s freedom as part of a privilege to actively navigate thought and conduct through correctional support and guidance. A social participation that does not reflect the grid of acceptable thought and conduct is predictive of a ‘recidivist’ potential. If women are not active in their corrective management such as through ‘job readiness’ or ‘programming’, for example, they skirt with and tempt re-arrest and imprisonment. Failure to remain ‘pro-social’ or law-abiding does not merely reflect social vulnerabilities or a lack of services or provisions, but the inability or unwillingness on the part of women to balance and realize their expectations (Kidney, 1991: 293), or evidence of poor personal coping strategies
Women must be cautious that they are neither too vague nor too unrealistic about their release plans (Ward & Keller, 1998) as they balance their social and penal realities and obligations. ‘Empowerment’, as part of a technology of freedom, invokes a notion of agency that encourages, forces, and compels a certain social participation and the ‘right’ choices.

Through an ‘emancipatory’ project of ‘empowerment’, the penal apparatus itself is positioned to offer the necessary skills and resources that can alleviate social hardship and ‘help women to help themselves’: “[it is] the process through which women gain insight into their situation, identify their strengths and are supported and challenged to take positive action to gain greater control of their lives” (Hart, 2000: 4; see also Morris & Wilkinson, 2000: 46). As noted above, styles of thinking and modes of behaviour take a prominent role in women’s ‘criminal’ management. Women are advanced as having specific deficits in thinking and living skills and other personal and social maladjustments. Where women’s social worlds have been ‘disempowering’, it is through penal logics that women can ‘empower’ or ‘re-empower’ themselves with psychological and cognitive interventions that target women’s emotions, beliefs, and attitudes (Agliias 2004: 334; Kendall, 2000, 2002). A notion of ‘empowerment’ fosters a penal logic that makes the women the authors of their social worlds, with the apparatus as the decisive force to reveal and direct the necessary thoughts and conducts.

The notion of ‘empowerment’ has been useful to cultivate women’s subject managements: “it is a practical and productive technology available for the production of certain kinds of selves; to estimate, calculate measure, evaluate, discipline, and to judge our selves” (Cruikshank, 1993: 329). Such a strategy not only provides those tools to make women aware of their corrective path, but links individuals to the apparatus in such a way that she remains within a belief that she alone ultimately creates and shapes her world. With correction emerging as a form of privilege and obligation, such an emancipation strategy supports the ongoing necessity of penal thought and practice and plays a part in how freedom is circulated and removed.

‘Giving Voice’ a Penal Autonomy

Emancipation projects are also linked to a political strategy of truth–telling practices such as ‘giving voice’. Part of the specificity in acknowledging and shaping women is by
consulting with, listening to, and hearing their experiences in their diversity (e.g. Severance, 2004). ‘Giving voice’ to women in the penal system is presented as a more or less unabated form of self-expression that supports and allows the women to define their experiences and inform discourse. Where ‘empowerment’ presents women as agents in shaping their correctional freedom, ‘giving voice’ fosters an appearance of autonomy and independence. It is within this affording or ‘giving’ context in which ‘voices’ are made admissible, however, that significantly shapes their articulation. That is, it is within the very context of enabling women to express and articulate their ‘selves’ that their penal management is further pronounced and activated.

For women, ‘giving voice’ emerged as part of a liberating discourse advanced within social and feminist critique that argued women’s experiences were too often neglected, ignored, or subverted. Within such critiques, women’s experiences and concerns are considered a critical part of informing and shaping an understanding of penality. By commenting on their social and penal experiences, women’s ‘voices’ are also linked to those technologies of freedom that promise heightened autonomy and penal freedom. Through an appearance of agency, women are made active in discussing the terms of their own confinement with reference to a more broad or general corrective management. For example, in the submission to the Select Committee on the Increase in Prisoner Population, women were asked to report on their own penal experiences:

We need preventive programs because there are so many (women) re-offending. There is nothing for the girls that get out. There has to be assimilation back into society, something is going wrong;

Well, I was doing well, I kept out of trouble for 18 months, 16 or 18 months, and I was doing well, and then I went into a depression, I wasn’t taking my medication and I ended up back here because I couldn’t cope. There needs to be other avenues, somewhere to go, like someone else to talk to, because it’s not working. (2000: 245)

Within the report, women also reported on personal difficulties and challenges in navigating the system, a fear of leaving prison, and a lack of custodial programs, See Chapter V and Hannah-Moffat (2001) for a more detailed discussion of the emergence and absorption of feminist thought and critique in penal discourse.
resources, and supports available to them upon release among others. In the NSW Aboriginal Women in Custody project, Aboriginal women were also asked to report on their penal experiences to assist in an assessment of the reasons for their own overrepresentation in the system. Interviews were conducted to determine health needs, drug and alcohol use, 'criminal' background, education levels, and legal and post-release needs. By reporting on their own correctional needs and failures, women are considered to be consulted, while the women's 'voices' are both informed by and framed within a penal logic. By discussing their experiences with reference to their penal arrangements, it is within broader penal and security apparatuses that women's 'voices' are invoked and shaped and, whether penal experiences are framed in positive or negative terms, they remain linked to overall corrective projects. Within such subject formations of 'truth' telling, women thus remain the site and transfer of penal knowledge through an appearance of autonomy and 'voice'.

As a liberating discourse, 'giving voice' to women's experiences is presented as an allowance that facilitates and permits the women themselves to express their own needs, fears, desires, and capacities; women are directed to find and express their freedom vis-à-vis their correctional administering. By using the women's own testimony, the apparatus is again situated as an emancipation device that can hear, identify, and address women's concerns. For instance, despite penal limits, the apparatus is nonetheless offered as a mechanism that can identify and address the various social concerns that exist for women: "[w]hile not desirable, incarceration presents an opportunity to initiate treatment to improve the health of this disadvantaged group" (Butler & Milner, 2001: 344). Women's concerns and experiences are subsumed within corrective frames that reinforce the need for the prison and penal interventions to identify, address, and improve lives.

But the subjects regulated by such structures are, by virtue of being subjected to them, formed, refined, and reproduced in accordance with the requirements of those structures ... and the feminist subject turns out to be discursively constituted by the very political system that is supposed to facilitate emancipation. (Butler, 1990: 2)
Penal research programs, commissions, and reports that seek to capture women’s ‘true’ experiences, instill even the most hidden penal logics that frame how women are understood and understand themselves as correctional subjects. Foucault suggests that such strategies are the effects of systems of interpretation that seek to impose direction, bend one’s will, and force participation to a new or different system of rules (1977: 152). I do not suggest here that women’s ‘voices’ are not constitutive or that they simply reinforce penal logic, but rather within the contexts and channels in which they are made admissible and understood, continue to operate within diverse and often hidden social and penal configurations that reaffirm a broader corrective necessity.

While the apparatus establishes the criteria necessary for an improved or necessary social participation, truth-telling techniques expose women to further scrutiny, judgment, and division. Shaping agency and autonomy to promote women’s freedom through strategies such as ‘empowerment’ and ‘giving voice’ are part of a penal strategy and modes of reasoning that shape and link a notion of freedom to corrective management. Taken together, correctional models of emancipation organize women as the agents and authors of their freedom, while it remains through the apparatus that a certain freedom is attained.

Subject Managements

With women as both the site and transfer of penal knowledge, penality does not so much support a political and social transformation, as much as it seeks to circulate penal knowledge and subject populations. As noted in Chapter IV, the women’s reform or rehabilitation, while desirable, is not the priority or point of power but, within the social–penal nexus, power seeks to produce a more general security and continuity by limiting or eliminating chance or contingent effects.

A whole corpus of individualizing knowledge was being organized that took as its field of reference not so much the crime committed (at least in isolation), but the potentiality of danger that lies hidden in an individual and which is manifested in [her] observed everyday conduct. (Foucault: 1978 [1980]: 126)
Working alongside social and security apparatuses, part of a penal application attempts to enhance life by ensuring a more productive circulation of life's positive or good elements, while eliminating the bad. What appears as an emancipatory project, such as 'empowerment' and 'giving voice', is part of a broader application of power that uses technologies of freedom and of the self to free-up a particular circulation. "This freedom ... is not concerned with the exemptions and privileges that [are] attached to a person. It is concerned instead with the very possibility of movement, change of place, and so on" (Dillon & Lobo–Guerrero, forthcoming: 34). Through social and subject formations, specific knowledges can circulate a more decisive strength, health, and/or ordering of space and populations. A circulation of penal knowledges and populations seeks to have women, and others, address social ills and sites of chronic threat. It is through shaping, regulating, and or managing social sites, lifestyles, and freedom that the apparatus reduces contingencies or risks and the exposure of negative elements. As the social, in its effects, continues to produce problem sites and populations, transformation is neither entirely possible nor desirable. The penal apparatus thus seeks to create positive formations throughout the social while relegating or containing threats and resistances to other sites and using other and more coercive and despotic means. It is also at a collective and individual level that resistances occur to disrupt, shift, and shape penal and corrective practices.

Resistance and Counter-Conduct

In NSW, as elsewhere, ongoing efforts are made to counter penal formations at an individual and collective level. Collectively, NSW has seen the development of groups such as Women's Ex-Inmate Support Service, Women and Girls in Custody Group, Justice Action, NSW Women Behind Bars, Civil Liberties Prisoners' Action Group, Beyond Bars Alliance Group, and the Penal Reform Association to challenge penal thought and practice through avenues such as media campaigns, public demonstrations, and political lobbying among others (see also Baldry & Vinson 1991: 94–104). Where social critique and collective resistance efforts are constitutive in shaping, shifting, and informing the terrain of penal discourse, as discussed in previous chapters, they also form its exercise.

Women's individual participation in penal thought and practice is not a straightforward or unabated acceptance of a correctional regime. Informed by individual and collective
knowledges and broader social critique and action, women resist and counter corrective arrangements as they refuse being governed in certain ways and according to certain schemes. With government operating at the level of conduct, Foucault notes that there also exist revolts of conduct or what he terms 'counter-conducts':

They are movements whose objective is a different form of conduct, that is to say: wanting to be conducted differently, by other leaders and other shepherds, towards other objectives and forms of salvation, and through other procedures and methods. (2007: 194)

Resistances are the collective and individual acts that operate in relation to a more general level of power. Counter-conducts are more specifically those acts that occur at the level of conduct against the effects of power that attempts to shape and bend one's will and actions towards certain government ends. Where resistances are the more general forms of practice that operate against various disciplinary, bio-political, sovereign, and other powers, counter-conducts are more specifically those acts against how one is governed in an effort to be governed differently and by other schemes. While I leave it to the next chapter to investigate the more collective actions and counter-conducts, such efforts and energies are important in shaping and informing women's own subject formations and forms of resistance.

In NSW some women have considered release schemes as a “licence to be at large ... as time goes on, you begin to realize that the survival mechanisms you evolved to get you through your jail term are still operating, and indeed interfering with your ability to get on with your life” (Hampton, 1993: 158). For women, these are knowledges and modes of government that no longer, if they ever did, correspond to how they live and make sense of their lives or penal management. Even with the individualizing practices that seek to have the women the makers of their own penal participation and containment, these arrangements also create the conditions for resistances to occur. Women always exist within and enact subject positions that counter, break from, and partition the lines of force of an apparatus that seeks to bring them into a certain state of being. Various authors have outlined multiple strategies and resistances employed by women to undermine or subvert corrective identifications and applications. Bosworth (1999), for example, reveals how women prisoners contest power relations in an attempt to present
themselves as independent from its practices and maintain their sense of identity: “women manage their experiences of imprisonment by drawing on their sense of self which they ground in their (feminine) identities as mothers, girlfriends, and lovers” (155). Watson’s (1982) research on women prisoners’ responses to assessments for release in Montreal, Quebec, uses Goffman’s notion of presentation of self and dramaturgy to analyze how women demonstrate institutionally approved behaviours to staff for release assessments. The women, however, define their behaviour as ‘conning’ not as a reflection of their ‘criminality’, but to retain their sense of self: “it is their retreat from and protection against the power of the institution to define them and their chosen method of remaining their ‘own women’” (Watson, 1982: 254). Individual and collective counter-conducts include hunger strikes, prisoner based groups, prisoner writing, jail house lawyers, letter writing campaigns, political theatre groups, court challenges, lodging institutional complaints, strikes and refusing to work, and other means of promoting an awareness of penal politics (see also Sudbury, 2005; Carlton, 2007). These acts refuse what is and seek to bring the penal terrain to other domains and spaces of understanding. As seen in Chapter IV, in NSW various commissions and task forces were developed to address collective actions and prisoner complaints and resistances. Through such practices, other institutions, groups, individuals, and activities emerge to form a part of the field and to inform its practices. These might include areas of health, education, employment, activism, feminism, and so on. These practices also structure and condition social, penal, and political terrains through the conflicts, tensions, and problems they create for government and how power responds to, accommodates, thwarts, or counter-directs them. What is an important part of these resistances, and more specifically counter-conducts, is how they reshape and are shaped by applications of power.

Resistances do not act against power, but are the effects of its emergence. With penal logics, along with social, political, and security agendas (re)affirmed in the women’s lives, resistances and counter-conducts are both shaped by and promote a variety of discursive responses that have both intentional and unintentional effects. The more individualized resistances, for example, may be framed as a refusal to align oneself with penal knowledge and to own a correctional self. In a corrective landscape, attempts to detract from or refuse the prescribed path are considered as conducts that work against a positive, ‘empowering’, or ‘pro-social’ circulation as women fail or ‘choose’ to exist in
potentially threatening ways. This orientation of individuals towards strict social and political ends is an attempt to shift individual resistances, alternative subject formations, or collective and political cohesion within broader corrective orientations. As O’Malley (1996) argues, resistances are often linked back to individualizing and responsibilizing penal modes of governance. To promote a broad circulation of penal populations, the apparatus localizes and isolates groups and individuals within specific and intersectional categories in an attempt to de-politicize and re-individuate resistances, counter-conducts or collective action to sites of correction. Resistances also open penal government to other domains and systems of though that fragment the field and penal operations.

The rationalities offered for the necessity and benefits of release schemes also promote a certain circulation and freedom through a corrective ordering. Release is presented as an individual opportunity with specific requirements and resources offered as the privilege and obligation of freedom. A failure to will and act marks a terrain for a despotic intervention while social categories and identification strategies locate, resituate, or remove women from some facet of the apparatus. Where resistances are constitutive, I highlight below some of the ways that some of the more individual resistances and counter-conducts are taken-up or responded to within penal and security apparatuses, and discuss in the following chapter some of the ways the more collective forms of action counter and shape social and penal fields.

Spaces of Elimination

When in the late eighteenth century sovereign rule mutated toward governmental and bio-political formations, a philosophy of freedom was not only embedded in legal subjects, but in living beings. Focus was on the promotion and circulation of life and those elements considered supporting the health and strength of populations. Freedom, in this sense, was promoted through social and individual health and wellbeing. Governmental concern was focusing upon those who could not adapt or reform simply by changing conditions of life such as those with mental health concerns or repeat ‘criminals’ (Blackman, 1996: 371). A penal apparatus thus served a part in the circulation of positive social elements and populations while containing or cycling out the bad or unwanted from its function. Today, where the social is presented as a particular form of freedom for those on release, it is also within and through the social
that a more despotic and coercive functioning is used to circulate and eliminate groups and interventions.

For an effective sovereign rule, part of its task is to preserve and protect territory. The penal apparatus, as it functions with other processes of life, in part takes on a sovereign function to protect territory and social sites from threat by ensuring a proper circulation of populations. For such, the penal apparatus and a bio-politics of security seek to shape penal populations in corrective orderings and use these same orderings and systems of identification to remove or eliminate those who cannot or refuse to be circulated in productive and positive ways. “In the process, the project of making live, as Foucault put it, is compelled to take on novel functions of correction, punishment, and death and deploy them violently against life on behalf of life” (Dillon, 2007: 12). It is within the social, as well as in the prison, that spaces of elimination are developed around those who do make the necessary adaptations and who threaten a productive social.

Within the social, spaces and arrangements of elimination are for those who fall outside the necessary relations, conducts, and norms and whose lives are made subject and vulnerable not only to further social hardship, but to those elements that invoke death; a death that could be and is decreed as the mark of a sovereign will against the unwanted or undeserving (Couze, 2007: 114). A women-specific corrective regimen, although recognizing women’s histories and experiences in relation to the social, continues to enlist women within the same relations that often support varying forms and levels of violence.

Many women experience relationship breakdowns and family disintegration due to their prison sentences and this contributes to the growing numbers released from prison without adequate or suitable accommodation, forcing them to live on the streets or in already overstretched crisis refuges. (Hampton, 1993: 185)

The same categories used to measure, determine, and qualify women’s penal management are also used to generate spaces of elimination. As the social and feminist literature indicates, women are situated in arrangements that do not satisfy social needs of housing, homelessness, health, drug use, and general wellbeing. Davies and Cook
(1998, 2000), for instance, documented and reported that the deaths of women on prison release in Australia mostly resulted from drug use, homelessness, violence, or suicide. Within the social, it is not that the apparatus itself is necessarily prone to violence, although that is a part of its effect such as, for example, with police brutality, but it is the administrative and bureaucratic efficiencies of the apparatus that cease to intervene at the level of correction and the circulation of life. In this way, conditions are created to circulate out the bad, undeserving, or unwanted. No longer operating at the level of correction, penal practices are either heightened to contain subjects or removed to create a space for which violence and death are made more possible.

Women who are most vulnerable or least equipped to attain a social stability, are more likely to be situated in those sites and places where eventual imprisonment or death eventuates. Within the prison, spaces of elimination are generated through isolation, strip-searches, deportation, and violence (see also George, 2000; Kilroy, 2002; Goulding, 2004, 2007). Further forms of despotism also result for women through higher classifications, involuntary transfers, searches, segregation, solitary confinement, dry cells, special handling units, transfer to men's prisons, excessive force, lack of medical attention, self-harm, and suicide (Carlen, 1983; Hannah-Moffat 2000: 526–527; Scraton & Moore, 2005a). For elimination processes, it is within the social that the penal apparatus circulates women outside of its function, while the prison makes use of the more violent and intrusive measures to remake, break, or eliminate social threat. The social–penal nexus exists for matters of both life and death and to expose those populations deemed unable, unwilling, or undeserving to spaces of violence or elimination.

Dylan Rodriguez argues that violence is at the core of penal practices. This is particularly so with a bio–politic that makes human bodies the measure of peace, security, and social stability (2003: 184). As Dean also suggests,

[...]no matter how bloody things were under the exercise of sovereign power with its atrocious crimes and retributions, it is only with the advent of this modern form of the politics of life that the same logic and technology applied to the care and development of human life is applied to the destruction of entire populations. (2000: 3)
It is through despotic forms of rule and either a heightened or lack of bio–political and
disciplinary features that slippages occur between sovereign practice and modern forms
of civility and liberal governance: “our modern norms of ‘freedom’ do not by themselves
immediately guarantee that the conditions of their possibility are fully integrated and
actualized (Schaff, 2004: 67). Reasoned through modernist doctrines of unity, evidence–
based programs, rational calculations, due process, and other measures of penalty, it is
the very character of the apparatus, as it operates through conditions and formations of
freedom, to also make removals and eliminations possible.

Conclusion
Corrective networks and supports are not made available to the women unless they
subscribe to their arrangements and demands. Transformation is neither necessarily
desirable nor the point of power since it is through a notion of freedom that power
operates to ensure appropriate subject formations take place. Interventions are linked to
a penal knowledge of personal lives and ‘criminal’ histories to ensure women navigate
and revisit their corrective path.

[Focus on what the offending behaviour was, what processes need to be
put in place to support that offender and, even more importantly from
our point of view, what processes need to be put in place to manage the
risk to the community. (Select Committee on the Increase in Prisoner
Population, 2000: 140)]

Case management, ‘empowerment’, ‘giving voice’, classification, and identification are
all part of a knowledge production to provide the profiles, patterns, and schemes to
shape and guide women outside a prison and within a penal regimen. Women are made
aware of how to create stable and productive lifestyles through such schemes in order to
improve wellbeing by minimizing and reducing ‘criminal’ capacities and to reject or
abandon those aspects of self that threaten such stability. Release schemes and
knowledges are thus developed along women’s capacity for self–correction as they are to
avail themselves of those productive and positive aspects of life and ‘community’. The
women’s ability and willingness to progress through these corrective schemes serve as
gauges of their capacity to create stability and avoid disruptive modes of living for their
selves and others. Failure to avail oneself is indicative of an inability or unwillingness to
participate and contribute positively in social-penal operations that result in the apparatus establishing those spaces in which women are contained or circulated out of a social functioning.

With penal categories deriving from a pathways approach, women remain vehicles for the transmission of penal knowledge and corrective schemes. Through a penal management that magnifies those social aspects of life considered as threatening and dangerous, women must negotiate and navigate their world in relation to 'criminal' potentials and social responsibilities and obligations. Women are linked to thought and practice that seek to shift or reduce dependencies, foster norms of conduct, and establish hierarchies of privilege and levels of deservedness. Thought and practice is thus organized in such a way to fashion freedom as a form of privilege and responsibility that makes it difficult for women to be contemplated and organized outside of corrective arrangements.

The point of discipline is not to force people to do what you want, but to make them into the kind of people you want; not to make people do what you want them to do, but to make them want to do it, and do it as you want them to, with the desired tools, efficiency, and order. (Allen, 1998: 22)

Given the limits of the prison to offer the conditions for 'positive' living, as well as the limits of the social to establish the definitive boundaries, subjectifying technologies linked to projects of emancipation are used to align women with penal schemes and to take a more decisive effect upon their being. Couched in feminist discourses and social critiques, correction makes use of those emancipatory projects to appear as a liberating mechanism, while maintaining women to particular modes of being that situate and resituate them within corrective tendencies while detracting from other possibilities for thought and practice. This is not, however, an unabated acceptance of the penal and corrective terms, as women resist, counter, and reshape the varying ways that the apparatus seeks to shape and mold aspects of their lives. Even though penal practice is criticized for failing to address the experiences of women and their social disadvantage, it is often advanced as a failure in providing the normative requirements for women to self-navigate and negotiate their release, and remains consistent with the necessity of
corrective measures and the usages of the prison that foster spaces of elimination. 'Freedom from' prison is contingent upon women accepting a form of salvation that lies through the very apparatus designed to identify and contain them. Women's involvement in security and penal apparatuses thus remain an aspect of their being 'free' in the world.
Chapter VII

Inalienable, Universal, and the Right to Punish: Discourses and Practices of Freedom

We escape then a domination of truth, not by playing a game that was a complete stranger to the game of truth, but in playing otherwise or in playing another game.

Foucault, 1988: 15

While there is a lower class I am in it, while there is a criminal element I am of it, while there is a soul in prison I am not free.

Eugene Victor Debs

Despite ongoing reforms, resistances, and struggles against its operations, penal tility tends to make use of such practices and strategies as part of its broader corrective functioning. Given this, other recent and renewed developments have been to challenge penal practices as a violation of rights and discriminatory practice. In Australia, and abroad, activists, feminists, and advocates are increasingly responsibilizing penal systems and state governments for failing to act on behalf of criminalized women’s social and economic needs. Made in reference to national and international conventions and agreements, human rights instruments are used to speak against penal discourses and operations that target women of specific cultural, social, and economic backgrounds and as a strategy to challenge pervasive punitive trends. Given a history of a rights and freedom discourse that emerged within similar modes of reasoning and styles of government that gave rise to the penal apparatus, this strategy to challenge penal practices also remains consistent with modes of reasoning and security and juridico-politico apparatuses that legitimate a penal necessity, its uses, and effects.

Rights, as enshrined in conventions and obligations, emerge within judicial and legal frameworks that shape and define the character of rights and how freedom is understood and articulated. In advancing a notion of freedom through a rights and freedom discourse, there also exists a danger of reproducing problematic regimes for women by creating other sites and localities for control and limiting a notion of freedom within
codified norms. This chapter considers recent appeals made using internationally universal and inalienable charges of basic human freedom in advancing the rights of women in the penal system in Australia and internationally. While advancing women's concerns and owning various possibilities, I caution of some of the limits and dangers in framing a notion of freedom as tenable through a rights and freedom discourse and suggest how freedom might be conceptualized otherwise; as a dynamic and diverse and open to multiple understandings, possibilities, and tensions. It is not an argument for the abandonment of rights, particularly as a current mechanism for those who live within repression and states of domination. Rather, it is to consider how challenges in the field can also be useful conditions for informing and negotiating ongoing struggles and expressions of freedom. Through a reworking of a conception of freedom, I consider the possibilities and impasses with using a rights and freedom discourse as a critical strategy to set women apart for consideration.

Women, Corrections, and Rights Challenges

As seen in earlier chapters, with women identified as the fastest growing prison population, along with arguments that they represent a distinctly disadvantaged and vulnerable group, penal practices are criticized as excessive, intrusive, and counterproductive means to address women's concerns. It is still maintained that women are incarcerated for less serious and violent 'offences', and present the least amount of risk. Such arguments establish a need to respond to women's concerns with anti-punitive measures, with efforts localized in communities, and with access to essential entitlements and benefits, such as employment, education, health care, child care, housing, social and financial support, and other services and resources. Further arguments have criticized penal practices as mechanisms that use gender as a point of modification and normalization, and serve to reinforce and reinscribe disciplinary gendered relations (Fox, 1999; Kendall, 2000; Carlen, 2002; McCorkel, 2003; Moore & Hannah-Moffat, 2005). Often within such references, women in the system are not so much characterized by their 'crime' or 'criminality' or as owning individual deficiencies or pathologies, but rather as generally coming from difficult and disruptive life circumstances and who are then criminalized as a result of responding to such disadvantages. Women's poor or unequal social, economic, and political standing has also been increasingly recognized internationally and has been referred to as the
feminization and criminalization of poverty'. It is argued that if women were to obtain better provisional entitlements and safeguards, then more equitable choices and opportunities to live, work, and prosper in larger society will also be available and circumstances for which women are criminalized will be reduced. For those who advocate on behalf of women in the 'criminal' justice sphere, recommendations are often made to divert women from or (re)integrate women back into larger society with the accompanying resources and supports where disadvantages can be addressed.

Within Australia, national efforts amongst activists, advocates, and feminists (including former and current women from prison) to challenge penal management using a rights and freedom discourse have also emerged in part as a response to the failures of grievance procedures and quasi–oversight bodies to adequately arbitrate penal practices, in addition to penal measures increasingly using women's social characteristics as points for punitive intervention. Criticism of the penal system's lack of external accountability, limits of the women's access to redress mechanisms, and neglect of the women's social and economic disadvantages are advanced as significant failures of the penal system and the state. With criticisms of the arbitrary, restrictive, and intrusive practices of a penal regime, challenges are mounted against state governments for failing to provide the women with basic rights, entitlements, and safeguards, particularly those enshrined within the United Nations' treaties and conventions. In NSW, the Beyond Bars Alliance group appealed to the NSW Anti-Discrimination Board for an investigation into the NSW Department of Corrective Services' for targeting and

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73 For instance, the position of the NSW Inspector General of Corrective Services, established in 1997 with a mandate to oversee the penal service's performance and operations, was abolished in 2003. The NSW Department of Corrective Services' Women Services Unit, established with a mandate to inform policy on women's issues, was disbanded in May 2005. Although the Women's Action Committee established by the department still exists, in 2006 the committee's only former women prisoner member was dismissed.

penalizing women's disadvantage and failing to remedy systemic forms of discrimination based on sex, race, and disability for women in and out of prisons (Beyond Bars Alliance, 2005). Complaints have also been lodged in other Australian States, with the initial complaint adopted from the Canadian model and stemming from Queensland (Sisters Inside, 2004), followed by Victoria (Federation of Community Legal Centers, 2005), and with the remaining Australian States following suit. Similar complaints and commissions investigating rights violations of women prisoners have also been carried out in other countries, as noted, such as Canada (Canadian Association of Elizabeth Fry Societies, 2003) and Northern Ireland (Scraton & Moore, 2005b). Generally, these reports highlight women's histories of poverty, abuse, and neglect, and the punitive and brutalizing nature of penal practice that discriminates against and violates women's social, economic, and human rights, and that also exacerbates and worsens conditions. The reports document the failure of the system to ensure correctional accountability and oversight and its limits to observe, accommodate, or support the needs of women in the system, particularly Aboriginal women, women with mental health conditions, and culturally and linguistically diverse women. The reports, focusing on both national and international covenants and obligations, call for state governments to atone for and remedy the compounding and overlapping forms of social and penal repression and disadvantage of the women. A particular concern found within the reports is to have women's concerns addressed outside of the prison and to promote a certain 'freedom from' punitive and authoritarian practices of the penal system, while ensuring women's wellbeing with a right to social and economic entitlements.

Linked to a rights and freedom discourse, knowledge of women in the system is circulated within specified fields of law and politics now identified as central in administering protections and entitlements. These legal and political mechanisms used to promote and defend rights and freedom also shape and define their context and

75 The NSW Beyond Bars Alliance is a coalition of 'community' and church organizations, activist groups, academics, and individuals with an interest in social justice.

76 These failures and inadequacies of penal management and practice are raised in relation to both international covenants and treaties as well as national rights obligations such as the equality provision of section 15 in the Canadian Charter of Rights and Freedoms or articles 2 and 3 of the European Convention on Human Rights that protects the right to life and the right to be free from torture, inhumane and degrading treatment respectively. It is noteworthy to mention that Australia carries no such binding domestic rights document, although observes the Minimum Standard Guidelines for the Treatment of Prisoners, 1984 and the Anti-Discrimination Act 1977.
articulation. With a rights and freedom discourse played out in a juridico–politico field, despite being articulated as inalienable and universal, they nonetheless remain the expression of government and political rationalities where various tensions and collusions exist and within competing and overlapping sites of power. Rights and freedom, as the product of an historical ethos and emerging within certain forms of knowledge linked to discursive practices and material conditions, are realized through a series of ideas, techniques, and strategies that govern the way they are conceived, promoted, and articulated.

A Brief Context and History of Rights

Human rights were first articulated as the natural civil rights of individuals in the 17th and 18th centuries, but were endorsed in various national bodies as moral and legal obligations after the French and American revolutions (Hughes, 1999: 48). Rights were conferred with universal applicability through the development of the Charter of the United Nations, 1945 and the Universal Declaration of Human Rights, 1948, that conferred humans with an inherent dignity and with equal and inalienable rights. The United Nations, as an oversight body with a mandate to see that international obligations are observed, was established to “protect and promote freedom, equality, dignity and human rights”. It is often evidenced that rights were given significant widespread consideration in response to growing concerns after the events of the Second World War (see Johnson, 1998; Rodley, 1999). Generally, human rights reflect four basic pillars and generations of thought and practice. The first pillar, as created within UN doctrines mentioned above, is the basic human dignity bestowed to all despite religion, creed, ethnicity, religion, or sex. First generation and second pillar rights reflect a ‘freedom from’ and a liberal character of rights that promotes an individuality supported by rationalist Enlightenment commitments. Second generation and third pillar rights reflect a ‘freedom for’ and equal access to social, economic, and cultural entitlements that emerged along with the industrial revolution. Third generation and fourth pillar rights, are a support for group and collective rights through development, human security, peace, self-determination, and later developed with a recognition of indigenous rights and a need to support life-sustaining environments (de Baets, 2001: 7014–7015; Ishay, 2004: 359).

77 Universal Declaration of Human Rights adopted and proclaimed by General Assembly resolution 217 A (III) 10 Dec 1948.
This brief context of the pillars and generations of rights and freedom shows that, despite inalienable and universal affixes, they nonetheless remain embedded in various and specific political, social, and cultural sites, have emerged with different historical events, and are conferred and recognized in particular contexts. As such, rights and freedom have existed within various tensions and contradictions since their emergence, such as between liberalism and social welfare or individualism and collective rights, and continue to shape and limit a conception of freedom. Some of the challenges and dangers in advancing women’s concerns within a rights and freedom discourse are in part a result of the tensions that exist between the pillars and generations of rights, as well as how they confer a notion of freedom. Although I do not speak directly to these historical tensions, current rights and freedom discourses remain an effect of the varying historical, legal, political, and government formations that inform them.

Protective Punitiveness and Corrective Freedom

With women in the penal system maintained as both a disadvantaged group and as the fastest growing prison population worldwide (Bastick, 2005), focus is brought to the reliance on punitive measures as the panacea to women’s social and economic vulnerabilities. Using a rights and freedom discourse to promote anti-punitive measures and social and political access, emphasis and responsibility is placed on deficient state social and economic policies and practices that fail to afford basic entitlements and to ensure women are not confined to those spaces that result in their eventual criminalization or elimination. Such advancements are not only useful for turning responsibility from the women to the state, but also extend an awareness of women’s broader social and economic vulnerability and the conditions and struggles for women more generally, particularly as such cases are mounted internationally.

With growing interest and concern drawn to women in the penal system as a group that is discriminated against, there remains a potential for reinvesting women in other localities of control. Wendy Brown points out that by maintaining women as a universal category, “[rights] may entail some protection from the most immobilizing features of that designation, [but] it reinscribes the designation as it protects us, and thus enables our further regulation through that designation” (2002b: 422). With efforts to remove emphasis from the women to the state and to gain awareness and momentum in
national and international spheres, women are constituted as particular subjects. It is within a field of rights and freedom that such an identification and unifying subject constitution is made to garner support. In such references, the judicial, legal, and administrative processes shift, collide, and collude to reframe women within new understandings and categories, and most often using corrective frameworks that have been facilitated by processes of identification.

Penal Violations and Protections

By shifting focus from women's 'criminal' character to the penal response to women's adaptation to systemic disadvantage, rights and freedom are conceived as both a right to entitlements and protection from state violations. The promotion of rights and freedom conceived as political and legal obligations of the state draws attention to state practices that provide its citizens with minimum provisions and to maximize protections considered necessary for an existence free from unnecessary restraint. In advancing women's liberties in this way, however, appeals are also made within the broader legal and political frameworks that legitimate and govern women's corrective management and confinement.

Women's social disadvantage is weighed against a perceived common good with both factors identified and arbitrated within a juridico-politico apparatus. This idea is reflected in the following quote adopted by the UN's Economic and Social Council: “[e]ffective criminal justice systems can only be developed based on the rule of law and the rule of law itself requires the protection of effective criminal justice measures”. Tensions that exist between the various pillars and generations of rights are to be resolved within judicial mechanisms that also operate alongside and are intertwined with security and penal apparatuses. UN treaties, for example, maintain that prisoners should retain all rights that non-incarcerated persons enjoy, except for those rights which must be forfeited or limited to administer the penal institution (Bouloukos & Dammann 2001: 757). In deferring to human rights codes and conventions, the law remains the decider and arbitrator of what is considered necessary and desirable. It is

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79 This is one of the main 'non-derogable' rights under article 4 of the International Covenant of Civil and Political Liberties that every person has a right to be recognized as a person before the law.
through the rule of law that women remain tied to a penal apparatus that works to identify and maintain corrective facilities, networks, and interventions deemed necessary for social protection and civil society. Punitive and penal thought and practice are further authorized and deployed through a rights and freedom discourse as judicial and legal processes determine the context of one’s rights and freedom against a perceived common and individual good.

While a ‘right to’ approach advances an understanding of women’s social and economic discrimination within current penal practices, it does not necessarily ensure women will remain free of constraint and discipline. For instance, as discussed in previous chapters, with the literature identifying women in the system as sharing common points of disadvantage, women are considered to be acting against social conventions in order to cope, adapt, or survive their living circumstances. “The issue of women committing offences has to be understood in the context of the status and quality of life of women and opportunity structures with respect to women” (Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 2000: 4). Women’s disadvantage is considered in relational terms of their ‘criminal offences’. State responsibility is to determine the context of disadvantage and ‘offending’ and to offer effective programs and policies that shape an ordering that will promote both social and individual health and wellbeing. Such a necessity can and often does result in other regulatory and punitive responses, such as mandatory treatments and programs, low-wage labour schemes, compulsory urinalysis testing, strip searches, regular surveillance and interventions, and electronic monitoring. With women from the penal system collectively defined as a disadvantaged group, the penal apparatus, as a protector of civil freedom and violator of rights, is also positioned to identify and remedy such violations en masse. The apparatus thus continues to be legally reasoned as essential to administer what is just and necessary for the protection of civil society as well as what is now necessary for addressing the rights and freedom of women ‘caught’ in the system.

Human rights appeals are intertwined with penal and corrective mechanisms used to identify and address women’s ‘criminality’ and disadvantage interdependently and make the necessary protections of society. Tensions between protecting collective rights of ‘criminal’ women with a concern for social safety, negotiate women within a mixture of rights, freedom, and corrective strategies. Women are immersed within practices of
correction that seek to liberate them from those aspects of life that contribute to 'criminality'. As argued in Chapter VI, the more vulnerable or disadvantaged the woman, the more the tendency to revert to correctional intervention to protect society and to promote her wellbeing. Notions of 'crime' and 'criminality' then remain tacitly tied to women as it is through formal identifications and knowledges linked to the penal apparatus that claims of disadvantage, vulnerability, and need are advanced. As Wendy Brown further comments, "rights that entail some specification of our suffering, injury, or inequality lock us into the identity defined by our subordination" (2002b: 423). Through a rights and freedom approach, the penal apparatus is used as an important device for identifying and remedying women's disadvantage and discrimination.

**Corrective Freedom**

To promote freedom, liberties, and access, other mechanisms, organizations, and procedures linked to a penal apparatus are also deployed. A strategy to promote freedom as a legal entitlement and state obligation lends itself to a reliance upon and dispersion of such penal networks. This approach can neglect the active and disciplinary role that non-state institutions, groups, and individuals have in the diverse and multiple spaces in the government of women. A rights and freedom discourse does not necessarily promote an absence of punitive and penal mechanisms, but shifts the modalities by which they are legally, administratively, and morally prescribed.

With women's vulnerability linked to 'criminal' titles, interest groups and stakeholders focus on corrective theories, schemes, and programs now linked to poverty, education, homelessness, mental health, and human rights. As seen in Chapter IV, a reliance on the penal apparatus is reflected in the variety of international research programs, conferences, and assemblies that promote evidence-based 'best practices' for correctional management. Penal thought and practice is thus tied to and informs diverse political, legal, and social fields and knowledges of women's rights and freedom in relation to their correctional management. This is exemplified in those discourses and arguments that advance a conception of women in the system as committing less serious offences, less violent, or committing 'crimes' of poverty. In maintaining a conception of women in relation to a 'criminal' character, women's vulnerabilities and needs continue

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to be made in reference with 'criminal' trajectories or tendencies cast against what is reasonable, necessary, and normal for civil society or within those benevolent enterprises of what is for the women's 'own good' and protection. The interactive character of diverse social fields and the penal apparatus collude to develop multiple social–penal knowledges that accommodate new conceptions of women's 'criminality' and correctional management.

In discussing women refugees who are escaping domestic violence, Sherene Razack (1995) argues that when feminists advance an understanding of women through claims of domestic victimization, the colonial contexts of their oppression are ignored. This makes it difficult to link other systems of domination into an understanding of violence against women. Similarly, with rights and freedom linked to and operating within a rule of law embedded in and that favours social–penal matrices, it is difficult to challenge a broader context of 'criminal' justice practices. For instance, in the ACT, Australia, the Alexander Maconochie Center that is currently under construction is considered to be Australia's first prison designed and operating on human rights principles.81 This event shows how a rights discourse is used to support those authoritarian and punitive systems from which disadvantaged groups are supposed to be protected from. With state governments responsibilized as the source of malaise and remedy, rights and corrections intersect to promote a freedom within the very apparatuses that determine, restrict, and modify what is considered tolerable, acceptable, and practicable.

Now considered to be an arbitrator of rights and promoting freedom, the penal apparatus is further enhanced to disperse its practices in other ways and to other frontiers. Scraton & Moore comment on how prisons not only shape and limit prisoner conduct, but also shape penal knowledge through points of access:

It is rare for independent researchers to gain unrestricted access to a prison, particularly a high security facility. Security, discipline and 'good order' are priorities routinely invoked by prison service managers and governors as barriers to in-depth, primary research … When research is commissioned specifically to assess possible abuses of power in the

81 As noted in Chapter III, it was Alexander Maconochie who had assisted in the further development of the ticket-of-leave scheme.
context of prisoners’ human rights and the state’s duty of care, the expectation is closed ranks, lost documents and restricted movement. (Scraton & Moore, 2005a: 68)

With shifts in penal thought and practice to accommodate a rights approach, certain protections are afforded, but with correctional schemes and penal knowledges more thoroughly embedded in such protections and operating at diverse levels and points of entry. As seen in Chapter VI, this facilitates some of the more despotic and punitive practices of removal and elimination should the ‘risk’ or ‘need’ arise. Even with challenges against the prison and penal system, the technical and legal procedures of this challenge do not necessarily subvert corrective tendencies, but rather create new conditions of penal practice and other restrictions. I do not suggest here that advancing women’s interests is simply counterproductive or that the penal apparatus exists as an unalterable or all consuming form. I suggest that rights and freedom, as they remain articulated more or less within the original pillars and generations from which they emerged, continue to be linked to ‘criminal’ justice, corrective, and punitive processes.

With freedom promoted within political, legal, and technical restraints and limits, a struggle for entitlements and safeguards for women can result in other vestiges of control and sites of subjugation, and with new ways of shaping women in and out of the prison confines. While a rights and freedom approach, in its articulation, may act as a mechanism to arbitrate power and to counter certain controls of penal administration, it remains embedded in systems of thought and practice consistent with those mechanisms that also promote penal norms and processes. Whether presented as rational actors, pathologically determined, or socially disadvantaged, women are circulated within other corrective arrangements and systems of thought that accommodate or rationalize ‘criminal’ deviations, gendered concerns, or a feminization of poverty. Corrective management becomes the de facto criterion for contemplating women as they remain within knowledge matrices linked to the penal apparatus where legal modes of reasoning are used to reduce conceptual tensions that exist between women’s rights and social protection. How is thought limited within a rights and freedom approach and what disciplinarian and corrective mechanisms do they enact? Freedom, without a clear articulation of how it remains embedded in the practices and discourses it seeks to
challenge can result in the recycling of restrictive and corrective forms of domination to other domains and locales.

**Disciplinary and Administrative Maintenance of Rights**

A strategy to responsibilize state governments for the discriminatory treatment of women in the system not only invokes political and legal knowledges, but also those disciplinary knowledges largely involved in shaping the norm by which women in and out of prison are contemplated and fashioned. Foucault asserts that where the juridical as an expression of sovereign power establishes rules, the disciplines define a norm; not something to be contested such as a rule, but rather a natural way of understanding or of being in the world (1980: 90). Linked to rules and legal processes, disciplinary knowledges continue to shape and define how women in the system are understood and, with a dispersion of such understandings to various social localities, are also removed from the immediacy of legal underpinnings and rights projects. In addition to these hidden penal logics, the more technical, procedural, administrative, and bureaucratic translations of rights, freedom, and legal processes also tend to further remove a rights discourse from its initial project.

**Normalizing Rights and Freedom**

Part of a dispersion of corrective measures throughout the social is in part due to the emergence of the normalizing disciplines into legal systems. As Valverde (2006) argues, various discourses have permeated legal language and judicial practice so that law has not remained pure or impervious to other systems of thought. Rights, as a legal strategy, also define a norm, a way of being, and establish what is acceptable, desirable, and reasonable within certain social, political, and economic currencies, and despite inherent, inalienable, or universal claims. Indeed, the rule of law has been central in the dispersion of the penal apparatus and corrective strategies to new areas, different problems, and various populations. As Rose points out, a rights and freedom framework has been significant in shaping and determining conformity, compliance, and classifications, and in developing new sites and new categories for legal determination and review. “[I]t is precisely the inability of persons to conform to or support this conception of free, rational, consistent, unified, choosing individual that is frequently the ground for making [a legal] ascription” (1985: 204). Identified within ‘criminal’
justice processes and existing within social and economic discord, women are set apart as a special category of thought for legal, disciplinary, and normalizing processes.

With the women's violation of social norms now linked to modes of living, their social participation is shaped around legal strategies that ensure gender and women's social disadvantages are the focal points for regulation, modification, and normalization. Through this process, groups and individuals that are considered to be without rights and freedom are also collected and dispersed within various systems and institutions, (e.g. human rights prison) designed to control, regulate, and monitor modes of life that have a stake in promoting a particular social and economic existence. The identification process is germane to the judicial and penal machinery as it is through locating and isolating groups that the normalizing strategies can occur. This is also particular to the social where such problems emerge and where corrective and normalizing techniques are most effective (see also Chapter VI). Rights and freedom thus further facilitate the identification of groups who fall outside of social conventions and norms.

With the normalizing disciplines enlisted in legal functions, the law becomes invested in a bio-politics of regulation and government (Rose & Valverde, 1998: 543). Whether women are understood through 'criminality', pathology, or disadvantage, linked to the social sciences, the law assists in establishing mechanisms to define and promote the norm. Where the human sciences, such as social work, medicine, and psychiatry are increasingly defining acceptable modes of life, women in the system are established as a correctional thought within these normalizing discourses. For instance, in response to the Canadian anti–discrimination submission noted above, the Canadian Human Rights Commission outlines the need to promote strong correctional principles:

The challenge is to give effect to the principles that guide the correctional system, including human rights and public safety, while resolving the inevitable tension between those principles in the correctional context. This conflict also gives rise to an opportunity to create an organizational structure, a culture and practices that are consistent with human rights principles and that enhance safe and secure operational effectiveness. (2004: 14)
The rule of law, linked to the normalizing disciplines and corrective mechanisms, determines and institutes what is necessary, operational, and reasonable: "[it] implies another system of surveillance, another kind of control; an incessant visibility, a permanent classification of individuals, the creation of a hierarchy qualifying, establishing limits, providing diagnostics" (Foucault, 1989 [1996]: 197). Correctional processes seek to create systems and operations that regulate and maintain knowledge, with rights and freedom subsumed within specific norms and forms of thought and conduct.

A rights and freedom approach invested in legal and legislative frameworks also promotes new and existing fields of expertise, specializations, and divisions that further distribute women within corrective streams. This is apparent with the plethora of disciplines and professionals who are invested in the women's correction, rehabilitation, treatment programs, (re)integration schemes, health plans, corrective management, and so on. Within existing networks and through a dispersion of corrective practices, it becomes increasingly difficult to reveal the way various institutions and practices stray from an initial rights project and the implications of its effects. As Rose asks, "[we] lack the means to conceptualize the nature, objectives and consequences of different mechanisms of control — who seeks to regulate what, by what means, in relation to what problems, in pursuit of what objectives, according to what distributions of power?" (1985: 202). Through a dispersion of knowledge, new controls and conditions that define and shape freedom in different ways emerge, always with a danger of creating new forms of penalty, discipline, obedience, correction, punishment, regulation, scrutiny, and so on.

Those involved in the care and control of women prisoners have their own aims, strategies, usages, and effects that do not always act in accordance with a project of freedom and entitlements. Pickett (2000: 404) highlights that rights, as invested in state rule, are often undermined by the various disciplines, networks, and projects also involved in systems of penalty and other untouched power dynamics and programs. Whether it is medical practitioners, drug treatment programmers, or employers, with corrective and 'criminal' justice schemes introduced as the necessary framework for public safety, the variety of disciplines and networks linked to the penal apparatus also prioritize corrective arrangements (see also Chapter V). Working within judicial and
legal frameworks can serve to maintain and reproduce existing disciplinary knowledges with forms of thought and practice consistent with the very structures and strategies that shape and impose limits and deny rights and freedom. They also exist within a potential to create those conditions from which protections are sought, such as through removal and elimination strategies.

The judicial and legal apparatuses, working under a veil of neutrality, operate alongside the disciplines to promote social norms and standards. As Gruber states:

The profound rights for individuals which were secured by great political documents and legal traditions were made insignificant by the complacent dependence of these formal institutions and processes on the expertise of the human sciences that legitimate the disciplines. This is most apparent in the decisions of a judicial system, which although formally radically insistent on the rights of the juridical individual, completely relies on, and defers to, the judgments made about individuals who have previously been made in the disciplinary archipelago or who are about to be made in it. (1989: 619)

Despite claims of consistency, fairness, impartiality, universality, and so forth, the law, embedded in various matrices of knowledge, does not operate as a unitary system, but is combined with other systems, discourses, mechanisms, and technologies of truth. With the law deployed to support and authorize the power of the norm (Rose & Valverde, 1998: 548), it is positioned to arbitrate and regulate rights. Thus is consistent with a process designed to identify and isolate problems areas, problem populations, and problem individuals upon which legislative, bureaucratic, and administrative processes are dependent. The rule of law, in its far-reaching potential to inscribe any and all, is used to locate and isolate individuals and groups for the administering of normalizing processes, punitive or otherwise, within formal and codified arrangements. With a decisive and forcible orientation, it assists with processes of identification and, with apparent uniformity in its application, appears as a neutral framework. Through notions such as equality, justice, rights, and freedom, it advertises as owning a capacity for objective or blind justice, while reproducing strategies of correction and domination.
Technical Legalities

In some of its more technical capacities, a rights process takes place in a complicated arena of legal doctrines, political systems, and institutions that create and shape the conditions of possibility through which rights and freedom can be articulated. Within legal processes, the ability to articulate a certain right or freedom must be sufficiently substantiated in facts, evidence, and argument. Responsibility is placed on individuals or groups to demonstrate the entitlements, deservedness, or violation of rights within and relative to various political rationalities and institutions. As a specialized knowledge, those who are privy to and disciplined within legal modes of thought and language can navigate through the systems and procedures in the presentation of evidence, argument, and proof. By operating through specialized thought and formal procedures, rights and freedom are dependent upon those who have considerable access to, are the most invested and implicated in its processes, and are the least hindered by legal discourses and systems of domination. Legal rights and entitlements, as determined by those who are least restricted and yet most implicated in its doctrine, also establish what is reasonable, normal, and necessary.

Woodiwess argues that, “politically inspired arguments can now only hope to make a difference if they use legal terms or, minimally, do not challenge legal norms or procedures (2002: 145). Arguments and claims must be consistent with legal rules and disciplinary norms to advance with legitimacy. So although the law does not form an absolute unity or hegemony, it nonetheless remains embedded in very specific fields of knowledge that organize thought and practice. With a normalizing function and erudite knowledge, the law and the rights and freedom that it supports, exist as a particularly limited access point for those furthest removed from the benefits of its exercise. “While all individuals may have formal rights, the vast differences between those who have access to resources to be able to exercise their rights and seek remedies for their abrogation, and those who do not, undermine the reality of formal rights” (Anleu, 1999: 200). Negotiating one’s material existence in this way, with limited resources, networks, or training, also undermines a rights and freedom discourse for those who are most affected by its violations. Embedded in legal discourse and doctrine, a rights and freedom approach can also further promote or reaffirm a certain inaccessibility.
Another technical and procedural aspect of the law that limits the currency of rights rests with its administrative processes that undermine a more extensive complexity of a rights and freedom argument. Ideas shaped around collective organizing and political actions are rendered more administrative, technical, and mechanical through the letter of the law. So where there is a politicized edge to the collective claims of women’s neglect and discrimination, through legal and technical processes, women’s political and activist interests are effectively de–politicized or removed from political and collective energies and visions, and invested in administrative and bureaucratic sites. For instance, the Anti–Discrimination Commission Queensland (ADCQ), in response to the anti–discrimination submission made by Sisters Inside, sought to find evidence and fact of discrimination claims and made recommendations for administrative, policy, legislative, and procedural changes within the penal system itself.

Since the ADCQ began this review, the Queensland Department of Corrective Services (DCS) has implemented significant improvements in a number of policies and procedures affecting women prisoners … While these recent changes (and some proposed changes) have benefited or will benefit women prisoners, this Report has identified that the legislation, as well as many other policies and practices, need to take account of the specific circumstances of women prisoners. (2006: 5)

Where the Queensland Human Rights Commission took on such an investigation, the NSW Anti–Discrimination Commission cited a lack of resources to even respond to the anti–discrimination complaint submitted by the Beyond Bars Alliance (see Armstrong, Baldry & Chartrand, 2007). Within the more cumbersome economic and administrative processes, collective action loses its momentum as it is blended within bureaucratic schemes of law, policy, and procedures that detract from its politicized origins. Possibilities for thought and action are narrowed or minimized within the more technical, procedural, and time consuming arrangements of the law. Where such bureaucratic realities exist in many places, it is nonetheless worth including a consideration of these arrangements as part of the struggle or political ‘problem’.

Despite criticisms levied at the state for violating basic entitlements and safeguards of women in the penal system, a rights and freedom approach is often subsumed within
legal codes and prescriptions that vitalize identification, normalization, and administrative processes. As a result, a rights and freedom discourse is reinvested in disciplinary and administrative sites that support corrective mechanisms that shape what is possible in the field. With the penal apparatus reasoned as a necessary system for the protection of society, a notion of 'criminality' is maintained as an essential character of understanding and shaping women. Disciplinary and corrective arrangements remain a centralizing feature for those who choose to participate, modify, and adapt, while removal or elimination remains a key penal strategy for those who now fail to avail themselves of their rights and freedom.

Affirming existing categories of thought through legal and judicial mechanisms retains a very distinctive conception and articulation of how women's rights and freedom are advanced. Rather than ask how rights can be promoted and protected, one might rather ask how are human rights and freedom doctrines invested in penal and corrective formations? How is freedom, framed as inalienable and universal, similarly implicated in such? If considered from a different vantage point, how might freedom be conceived and practiced otherwise? Asking does not so much suggest a failure of a rights approach or imply inaction, but rather directs us towards other lines of inquiry and thought for action and a consideration of other possibilities to existing arrangements.

**Practices of Freedom**

Freedom, as an articulation of a rights discourse within international covenants and protocols, is treated as a form that exists or operates against systems of domination; as something that exists outside of corrective, penal, and disciplinary formations and strategies. The institutions and practices involved in the production of rights and entitlements, however, are grounded within various schemes that operate through strategies and mechanisms that promote particular ways of conceptualizing, articulating, and administering a conception of freedom. An ongoing reliance upon legal frameworks to determine and shape liberty minimizes possibilities of moving away from the very apparatuses that produce and reproduce systems of control, subordination, and so forth.

What I am afraid of about humanism is that it presents a certain form of our ethics as a universal model for any kind of freedom. I think that there are more secrets, more possible freedoms, and more inventions in our
future than what we can imagine in humanism as it is dogmatically represented on every side of the political rainbow. (Foucault, 1988: 14–15)

A rights and freedom discourse are tactical counter-conducts that challenge taken for granted assumptions and bring an awareness of how women in the penal system are socially, economically, and punitively managed. It is also useful in redirecting thought from an individualized focus on women and problematizes state and political practices. It is, however, within the pillars and generations of rights that a freedom is shaped and conceived, while notions such as inalienable and universal give the illusion that one’s freedom is boundless. It neglects the social, economic, and historical specificity from which freedom emerges and minimizes the frames, mechanisms, and institutions of reference that shape and determine its articulation. If a specific freedom is sought through a rights and freedom discourse, the diverse, modes of reasoning, processes, and practices to which it is bound ought also be points of contest and negotiation and open to multiple and diverse possibilities. It is not to ask who holds or occupies power over or against, but rather how is freedom shaped through power and how does power shape a conception of freedom?

Using Foucault’s conception of mutually conditioning power-knowledge relations (see Chapter II), freedom is contemplated as something that exists within multiple spaces of power as it shapes and is shaped by its conditions and formations. With a notion of freedom understood within relational and mutually conditional terms of power, it cannot exist as an absolute or liberating form, but as an ontological condition of power that shapes the possibility of various forms and systems of thought and practice, repressive or otherwise. Freedom, as inscribed within legal doctrines and practices, is not essential but tactical; a strategy that reshapes or reproduces legal configurations of the subject, and that can reaffirm or reinvent disciplinary mechanisms. "All rights talk, whether singular or natural, is to some extent tactical, for it is always a case of using it to preempt and/or facilitate a possible action or range of actions" (Ivison, 1998: 142). To consider freedom as having an essential or attainable form and acting against disciplinary power overlooks how freedom is used strategically within political thought and action. How it (re)produces modern modes of reasoning inscribed in disciplinary,
normalizing, or other forms of power, and the discourses of truth that have been long associated with the penal apparatus, including rights and freedom.\textsuperscript{82}

The system of right, the domain of law, are permanent agents of these relations of domination, these polymorphous techniques of subjugation. Right should be viewed, I believe, not in terms of a legitimacy to be established, but in terms of the methods of subjugation that it instigates. (Foucault, 1980: 96)

It is to look at the ensemble of the apparatus and the vestiges of thought and practice that contribute to and affirm its operations, including discourses of freedom.

\textbf{Tactical Rights and Conditions of Possibility}

Freedom, understood as a condition of possibility, as something that facilitates and shapes streams of discourse and various institutional arrangements, and as something that does not exist outside of power, but as an ontological condition of its exercise, is also negotiated as an ongoing practice. Freedom is not an essential part of our being or something to strive for, but a condition of relations and the various ways that power has come together as we resist being governed in a certain way. By looking at the social from this vantage point, we begin to see passages to other possibilities and creating other spaces, concepts, and actions, and to do otherwise at very specific and local points as an ongoing practice.

Liberty is a practice. So there may, in fact, always be a certain number of projects whose aim is to modify some constraints, to loosen, or even to break them, but none of these projects can, simply by its nature, assure that people will have liberty automatically, that it will be established by the project itself. (Foucault, 1999: 135)

Freedom as such directs attention to the ideas, languages, and practices that reaffirm and reproduce existing strategies and methods of regulation, normalization, discipline,

\textsuperscript{82} Take, for example, the Aboriginal deaths in custody such as the death of Mulrunji Doomadgee, or the various inquests that fail to find fault with police practices such as the T.J. Hickey inquest, (see the Indigenous Social Justice Association), or the long standing and ongoing neglect of investigating the disappearances of Aboriginal and non-Aboriginal women in East Hastings, Vancouver and elsewhere (see the Native Women’s Association of Canada). We need not go far to see the effects of the practices of the law and ‘criminal justice’ systems in those countries of civility and freedom.
and others in and outside of state, security, and penal apparatuses. It also entails a rethinking of the multiple spaces that encumber, stifle, or support a shaping and reshaping of particular subjects, such as 'criminal', disadvantaged, victim, and so on, in order to disrupt and dislocate the mechanisms and institutions that tend to consume them. Operating neither in a permanent state or an absolute form, a practice of freedom details its relationship to power. Expanding on an understanding of freedom offers those who are directly involved in the struggle other modes for thought and action, other venues, and other ways to resist the many disciplinary and individualizing vestiges that power creates.

**Freedom and Resistance**

Counter-conducts and resistance are fluid and relational to power, and do not have an absolute or normative criteria or destiny, but also hold multiple potentials. With resistance contemplated as existing within complex multiple relations and contingencies, the variety and character of a rights and freedom discourse is also considered within such possible conditions and formations. That is, rights, acting as a mechanism for those who struggle against forms of power, is contemplated within its embedded-ness in the field, and not as something that is tenable outside of political-economic, social, or legal arrangements; neither must we commit to claiming normative, absolute, or pure vision. It becomes more of a question of approaches, tactics, and understandings rather than overarching equalities, impartial justices, or blanket protections. A reframing of resistance offers a consideration of how thought and practices can be reinvested in sites of control and institutional languages and discourses. A critical knowledge of rights must not necessarily privilege one approach or strategy over another, but can serve to reshape ways of thinking about practices of freedom as an ongoing project and how it can be contemplated, strategized, and renegotiated within games of truth and power matrices.

In rethinking counter-conducts and their relation to power, we also consider how power creates the conditions and possibilities for such type of resistance and from which a notion of freedom can be articulated. Resistance, as a something that does not exist outside of or apart from that which it seeks to challenge, is also an effect and modifier of

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81 See Chapter VI for a discussion of counter-conducts.
power as it shifts its modalities, formations, and vestiges given the conditions and rules of its emergence. Resistances not only act in negation to, outside of, or against power, but from within, and are as much a productive form. Resistances are also a part of a practice of freedom that contemplates how forms of liberation are implicated in forces: forces that disguise forms of control, discipline, and despotism by using values of liberty, justice, and equality. It is to work outside and alongside corrective frames, discourses, and systems of obligation and domination, and within ongoing grounded, local, and historically specific concerns.

We therefore look for hidden agonisms that expose and challenge forms of authority, obligation, and hegemony inconsistent with the rules and games of truth. For example, rather than find a new order, but rather to disrupt what exists, Derrida suggests a displacement of existing orders through an approach of differance: “the ‘active’ moving discord of different forces, and of differences of forces ... against the entire system” (1982: 18). Such an approach has no fixed identity and recognizes no permanent authority — nor does it privilege its own approach, or existing ones. Similarly, this approach does not suggest acquiescence to current practices nor does it suggest inaction. It acts as a contingency — continually rethought and recreated through relations of support and agonism that contemplate and contradict institutional arrangements, discourses of language and knowledge, and authority and relations of power: “on the one hand, it is an outside that threatens the inside; on the other hand, it is an outside that is formulated from the inside” (Newman, 2001: 12). Although I do not offer any definitive forms or conditions for resistance here, the above suggestion is to reflect some of the possibilities that a shift in analysis, such as offered by Foucault, can assist in dislocating and disrupting various practices, structures, and regimes of truth, including our own.

Conclusion

The anti-discrimination and human rights reports and commissions listed above offer academics, feminists, and activists many possibilities for struggle. They are particularly directive by shifting attention from women as ‘criminal’ to the modes and practices of criminalization. With a rights and freedom discourse owning its own political and historical ethos and embedded in conditional fields of possibility, however, they exist within various possibilities of being inscribed in old and new sites of penalty and correction. “The liberal view of freedom evokes areas of life, often defined by rights,
where the individual should not be subject to any social constraint ... [it] enshrines a faith in an autonomous subject who can avoid local prejudices and who can be freed” (Bevir, 1999: 69). Given the illusion of an unrestrained freedom, without a consideration of how rights and freedom themselves are also invested in conditioning possibilities of domination, there is a danger of reconstituting and reaffirming the very forces that are challenged.

With a rights and freedom discourse, tensions are arbitrated within juridical, political, legal, and disciplinary power and to other locales that shape how freedom is promoted within ‘criminal’ justice measures. With the penal apparatus legally reasoned as necessary to promote both social protection and women’s rights and wellbeing, a correctional framework becomes the mechanism through which women’s freedom is sought and promoted. With critique and challenge subsumed within the penal apparatus, women remain identified as vulnerable within ‘criminal’ titles and managed within diverse correctional spheres. The normalizing disciplines, attached to women’s social disadvantage, are more easily considered to be forming an inherent right and essential freedom. What has been acquired then is not the result or lack of pure, clear, or true vision, but the effects of working within the prescriptions and struggles of legal, corrective, social, cultural, economic, and political frameworks.

A conception of freedom embedded within the rule of law can reproduce or recreate that which it identifies as problematic. A rights and freedom discourse, as something that is very much a part of a landscape of power with its own prescriptions and boundaries, opens up new relationships, new struggles, and new strategies that must be considered and recognized with its own arrangements, investments, and implications in the production of truth.

The thought that there could be a state of communication which would be such that the games of truth could circulate freely, without obstacles, without constraint and without coercive effects, seems to me to be Utopian. (Foucault, 1985 [1992]:18)

Rather than offer an alternative conception of how a rights and freedom approach might be advanced, I attempted to highlight some of the more subtle or hidden dangers in
privileging an approach that is contemplated as inalienable and universal, and yet operating within judicial and normalizing frameworks that disperse the very practices it seeks to challenge. Without offering a normative framework or definitive criteria for forms of action or resistance, I nonetheless extend analytics and insight into how women in the penal system can be enlisted into the dominant corrective frameworks. Without insisting on an abandonment of rights, I suggest how a rights and freedom discourse might be considered otherwise; as part of a larger strategy in the games and mechanisms of truth.

An investigation of rights and freedom in this way does not discourage its application, but directs attention to how rights operate through a judicial program of power that reinforces or produces various disciplines and sites for control. Using a rights approach must seek to dislocate authority and hegemony, liberate spaces for new ways of thinking, challenge the matrices, networks, and frameworks of power within which freedom itself is articulated. It is to reinvest rights in other arenas and in other games of truth. In concerning ourselves with the historical and political ethos and rationalities of certain domains and by framing understandings of resistance and freedom as something that is not tenable outside of ourselves, freedom becomes an articulation, negotiation, and struggle within specific locales, at particular times, and in relation to particular modes of reasoning.
Conclusion

You must be the change
you wish to see in the world.
Mahatma Gandhi

Critique of what we are is at one and the
same time the historical analysis of the limits
imposed on us and to experiment with the
possibility of going beyond them.
Foucault, 2000: 319

The penal apparatus has been a centralizing feature in circulating specific
knowledges and populations throughout the social body. By looking at the
productive and relational aspects of power, penalty is not merely a social product, but is
part of a technology informed by rationalities of government and practices that seek to
invest subjects in its practices. With the penal apparatus embedded in social and
political landscapes, incumbent release schemes serve the shifting rationalities of penal
reform. In their various capacities, release schemes draw upon and help generate systems
of identification, disciplinary knowledges, and a circulation of penal populations with
the effect of promoting a more decisive and ongoing corrective ordering. It is in part
through release strategies that the links and lines of thought between the social and
penal apparatus are made less clear and more multiple and complex than a notion of
penal 'freedom' suggests.

As an adaptation process, penal release schemes facilitate the productive and restrictive
features of corrective techniques that are made a necessary feature for women's
'transition'. This arrangement facilitates a circulation of women, and other penal
populations, as they navigate their corrective paths towards a more productive social
participation. Through a historical analysis of penal release in NSW, I show how women
have emerged as a problem for penalty and the social and provide an account of how
they are fashioned within various interstices of this nexus. This thesis reveals how penal
release schemes facilitate a corrective ordering of women throughout the social and how
women, linked to specific knowledges, are made the objects and instruments of a penal
exercise.
By investigating women as a category for thought and practice rather than the direct subject of analysis, I avoid a pre-discursive characterizing of women that embeds them within other games of truth; one that avoids mirroring women within the same problematizations of modern thought and penal rationalities. This approach is a move away from a unifying conception of the subject towards one that is more fluid, discursively organized, and active in her own correctional formation. Through an investigation of the multiple social–penal relations and formations that shape how women are understood, analysis is directed towards the ensemble of ideas and discursive practices that make up the relays of truth. This is also done in order to also move beyond them. “I will say that critique is the movement by which the subject gives [her]self the right to question truth on its effects of power and question power on its discourses of truth (Foucault, 1997b: 32). Critique must not necessarily offer normative strategies for action, but can also open investigation to other threads of thought and lines of enquiry. Critique, as such, is never final as it seeks to disrupt the same forms of reasoning that create and fashion problems for government and assume an inevitability of who we are and how we live, work, and create.

Through a genealogical approach and analytics of power, I also reveal how penal narratives of progress, such as developed through languages of (re)integration, transition, and pathways, reflect a tendency to present both the history and practice of penality as a logical and continuous sequence of events. As Foucault suggests,

the key to power in the modern era is the acceptance by all that there exists an ideal continuous smooth text that runs beneath the multiplicity of contradictions, and resolves them in the calm unity of coherent thought. (1972 [2002]: 55)

Such claims of a natural or normal foundation for current practice universalize and legitimate current penal practices and limit and shape possibilities of thinking and going beyond them. Rather than a coherent unity, I offer an account of the ways release schemes inform a penal exercise in organizing women as a specific penal population. I thus contribute to a literature that challenges dominant modes of shaping and producing a penal truth and attempt to frustrate, subvert, and destabilize some of the penal logics that are presented as a necessity and coherent unity. Through such an approach, it is
here where one can consider the effects of thought and practice within the various power–knowledge–subjectification matrices of an apparatus, without a normative commitment for offering a 'true', fuller, or complete account of existing arrangements.

**Shifting Penal Trends**

Rather than release schemes emerging as a natural progression in penal practice, as I elaborate in Chapter III, the penal apparatus made use release schemes to circulate penal populations prior to the predominant use of the prison. Convict women, mostly regulated through their sexual and reproductive capacities and were either assigned to domestic service, prostituted, or encouraged to marry. The prison initially emerged as a centralized administration bureau and holding cell to facilitate these arrangements and assist in colonial development. The ticket–of–leave scheme, attached to certain privileges and a conditional freedom, offered a means to maintain ongoing regulation over and circulation of convict life and labour. This history indicates more of a contingent shift in release practices, rather than logical step in prison release.

As new overseas knowledges continued to inform colonial penal government, along with changes and developments in colonial life, convict management shifted towards 'crime and punishment' discourses. More elaborate identification systems were also introduced into penal management to create a more decisive knowledge of penal populations and arrangements. Such emergent knowledges created tensions in colonial and penal practice that gave rise to ongoing reversals, adjustments, and reforms. With new modes of reasoning attached to penal administration, along with shifts in civil, economic, and political life of the colony, prison release schemes became more a part of a gradation and privileging system. Combined, these offered an earned 'freedom from' prison rather than a 'freedom to' labour outside of government stores and convict life. It was this shift that shaped current penal release schemes as a penal progression.

Attached to a certain notion of public protection, one that also ensured the strength and health of populations, prison release in the early twentieth century was shaped within a benevolent enterprise to minimize economic hardship and enforce norms and codes of industry and civility. Penality was concerning itself with the material and social needs of those leaving the prison. A project of prison aftercare consisting of volunteer–based groups and individuals was established to accommodate emergent knowledges and
shift a reliance on government for labour and provisions onto the social by addressing
concerns with employment, shelter, food, and clothing. As such, aftercare established
links between penal management and the social and gave penality a more adaptable
form. These developments in release not only set a foundation for current practices, but
ensured that the now predominant use of emergent practices associated with the prison
did not alienate elements of the social from its exercise.

Where aftercare volunteers attended to the individual aspects of life, a formal system of
parole emerged as a form of public safety through a re-socializing process that made the
more private spaces and detailed aspects of life the target of penalty. Adopting the
support arrangement previously established by prison aftercare, as a formalized penal
scheme, the parole service employed both facilitative and restrictive elements of a penal
exercise to invest itself into the diverse areas and aspects of life. What seems
contradictory was in its effects, what made current release schemes possible. With
supportive penal networks and models shaping the social, the more restrictive and
coercive aspects of penality enforced a more strict social participation to enhance
security. Informed by gender categories elaborated throughout the social and as a form
of public protection, knowledges were developing along women’s capacities for self-
correction and to avail themselves of those productive aspects of life and ‘community’
through employment, children, education, programs, and family. Invested in their
private and public lives, these practices made both the women and personal others
invested in their (re)integration. These trends in corrective management de-centered
the locus of control from the penal apparatus to social and individual sites of regulation.

Women and the Penal Apparatus

Today, women within the penal apparatus are identified and problematized as a specific
category or population and, linked to ‘criminal’ titles, and are contemplated within
emergent social-penal discourses that circulate throughout the networked effects of the
archipelago. It is within a corrective archipelago that the penal apparatus can shift in
and out of social domains and make its practices available, but not necessary, as other
social institutions and practices take over. The productive and restrictive aspects of
penal release, while (re)integrative, also operate on a norm to detect and isolate
categories and create divisions and hierarchies that set women apart within the social. It
is through ongoing (re)integrative and transitional schemes where the divisions and
cataloging of women also take place, and subsequent punishments, treatments, controls, rehabilitations, therapies, programs, removals and, in some instances, eliminations occur.

Part of what has made power so productive in this domain has been framing a notion of release within a context of freedom. Existing within this privileged site, women in the social are responsible to attain a certain existence free of the coercive elements of a penal exercise, as they shift dependencies to other social sites. Although the social may be limited in its ability to monitor, direct, influence, and mediate the lives of the women, linked to a particular form of freedom and facilitated by systems of identification, release schemes and programs set limits, shape social participation, and provide the legitimacy to revoke freedom and remove women from a social function. Penal release schemes have been central in shaping and informing a penal exercise, while making various aspects of penality less visible throughout the social.

Correction seeks to enlist women into particular gender and social arrangements and making use of such an ordering as points for intervention. As I discuss in Chapter V, over the last few decades, penal practices have been criticized for operating along gender-blind trajectories that reinscribe women within norms of femininity and target women from poor and racialized backgrounds. With efforts to highlight the systemic targeting of social disadvantage, penal knowledge incorporated these defining knowledges of the women for its own usages and made these aspects of life a part of their corrective management and (re)integration. Focus turns to a character of women as unstable, difficult, abused, vulnerable, or neglected, with penal thought and practice used to address such specific conditions. Penal practices promote a unifying understanding of women as uniquely distinct and correction is delivered in a manner that connects and overlaps gender and 'criminal' categories to promote social participation and a penal necessity. This both encourages and coerces women to address their personal instabilities and social vulnerabilities while working within a social and penal knowledges and configurations. While feminist and social critique are instrumental in shifting and reshaping the penal field, some of the more enduring elements of penality also continue to inform and shape such discourse to develop multiple and diverse possibilities for women and correction.
The development of specific categories for intervention is not a mere effect of social control mechanisms but a capacity or willingness to generate and circulate productive aspects of life and to organize populations in particular ways. With the limits of the prison to create autonomous or 'normal' modes of life, the social is made the resettlement apparatus in stabilizing women's conduct. The more disciplinary and normalizing features concentrated in the prison are transferred and adapted to the social body in a more flexible form (Foucault, 1977 [1995]: 198–202). Women are thus not only involved in 'criminal' justice processes that seek to contain or control social dispossession or 'criminality', but rather make use of such knowledges to have the women actively negotiate their corrective paths. As discussed in Chapter VI, correction is not necessarily concerned for women to improve or transform, but to reduce negative conducts and shift dependencies to other social and regulative sites and individual responsibilities. Penal schemes thus serve broader a bio-political functioning to circulate positive social elements while, targeting, removing or containing those who do not contribute to the health and strength of populations.

Through the penal apparatus, women are linked to technologies of citizenship and freedom that seek to fashion and maximize a particular social participation. Within the social–penal nexus, women's freedom is shaped by and constrained within social obligations and levels of deservedness that work through emancipation strategies such as 'empowerment' and 'giving voice'. Through penal release and transitional processes, women remain linked, however tacitly or tenuously, to a penal apparatus that shape notions of agency and autonomy as a way to align will. Should the desired shifts or adaptations not take place, the penal apparatus and its more despotic features remove contain, eliminate social threat, or create the conditions for which women are circulated out of a social functioning and resulting in possible death: sovereign power has not necessarily become less important, it has just gone more underground (Alford, 2000: 140). With an emphasis on freedom, it is also the social that is made a problem for penal management and from such a problematizing that the penal apparatus itself is made a necessary aspect of a social exercise.

**Shifting Possibilities**

To ensure a certain civility or public protection, penal interventions are not only reasoned as a necessity but, are often offered as the remedy of its operations. Recently,
as seen in Chapter VII, challenges against the prison and such penal practices have been advanced within a rights and freedom discourse, particularly as enshrined within international treaties and obligations. With a focus on the law, some of the more pervasive or hidden aspects of penalty that operate within such a juridico-political field continue to reason a penal necessity and the correctional schemas that it supports. In responsibilizing state governments as the key administrator of human rights and protections, women's freedom is shaped by broader social protections, legal codes and conventions, and corrective managements and administration that shape and limit the possibility of such challenges. While such initiatives are formative in shifting focus from women as 'criminal' to the 'criminalizing' practices of state governments, I also seek other strategies for thought and action through an analytics of the more taken-for-granted aspects of the circulation of power.

Rather than basing struggles on a conception of 'freedom from', it is productive to define resistance in relational terms and freedom as a diverse and ongoing possibility and practice rather than as a specific form of life to be acquired. As I discuss in Chapter VI, for instance, resistance occurs at the level of conduct as women resist being governed in certain ways. Such resistances both shape and are shaped by the forms of knowledge and power that condition their exercise and in which they shape. Rather than fight the prison or state in oppositional terms, we might discover more localized and fragmented struggles with multiple constituting elements that shape the exercise and articulation of power. As such, it is not so much to liberate individuals from prison, but part of a practice to disrupt those modes of reasoning and government that continue to invest particular groups in multiple and complex social, penal, and corrective sites. Part of such a struggle is to challenge those discourses that envision and determine what freedom is and how it is to be exercised. A consideration of freedom as a condition of power is an important way of shaping and informing those struggles against modern penal practices.

Criticizing a state or an institution for not living up to its own stated principles of freedom is an implicit acceptance of those principles and discourses that are integral to power (Pickett, 1996: 460). A strategy of agonism is thus not to eliminate power or to find some other universal ideal, but to “to allow these games of power to be played with a minimum of domination” (Foucault 1988: 18). For example, Australian groups such as ‘Sisters Inside’ in Brisbane and ‘Justice Action’ in New South Wales, as grassroots
prisoner based advocacy groups, are well placed to oppose dominant discourses through ongoing local struggles advanced by the prisoners themselves. Even where such groups risk participating in 'discourses integral to power' such as, for example, operating within a human rights discourse, they nonetheless constitute that 'category of people' upon whom power must act. This shifts the terrain of struggle into a politics of agonism as something that challenges and problematizes existing arrangements of non–politicized penal strategies and the way power organizes 'multiplicities' through bodily capacities and within institutions. By operating within a 'permanent state of provocation' (Foucault, 2000: 342), the parameters of possibility of prisoners acting are challenged and redefined and power itself is made visible.

Given this thesis, the capacity to resist or alter penal arrangements also depends on a critical capacity to identify the mutually informing relationship between the social and penal apparatus. For example, with release schemes as both an institution and process that normalizes systems of punishment, agonism then is to problematize the underlying strategies that inform an exercise of power. This might include disrupting relations between aftercare and the penal apparatus, making use of other terminologies outside of penal language, redirecting lines of discourse that prioritizes prisoner movements, and generally recreating and redefining such resistances. Investigating the relationship between the social and penal apparatus and how penal schemes such as release are formative in shaping and informing a social–penal exercise, shifts attention to other constitutive elements outside the prison and the more apparent, formalized, or visible forms of penal practice. It also shows how resistances and counter–conducts are constitutive in shaping and shifting the field and games of truth as power responds to the conditions if its emergence.

On one level, this thesis is an investigation of how release schemes, in their diverse formations, have assisted in organizing and shaping women within penal and social formations. On another level, by considering some of the more hidden logics of penality that shape broader social and corrective applications, it is in part for those who challenge penal practices. As an analytical inquiry and tool of investigation, this work can be used to generate other ideas and to consider other spaces of struggle. In its most basic form, it is to find some level to pursue a study of women and penalty by tracing a specific penal emergence and possible trajectory, without presupposing women within
other corrective vestiges or unifying categories or attempting to resolve the tension in having to do so.

Foucault (1988) points out that his work has been to make others aware that they are freer in ways other than what they might think by reflecting on those strategies and tactics that tie us to norms of truth, while giving us the impression that we are 'free' in our pursuit to improve ourselves and others. This thesis does not speak on behalf of others, but in speaking to discourse and the discursive, is part of a broader activity to think and act against systems of constraint and productivity.
archaeology: “reveals discourses as practices obeying certain rules ... its problem is to define discourses in their specificity; to show in what way the set of rules that they put in operation is irreducible to any other”; “defines types of rules for discursive practices that run through individual oeuvres ... it is the systematic description of a discourse-object” (Foucault, *Archaeology of Knowledge*, 1972 [2002]: 155; 156); “a method of isolating a discourse object, it serves to distance and defamiliarize the serious discourse of the human sciences”; “the rules governing theoretical practices” (Dreyfus & Rabinow, 1983: xxv; 102); “an analysis of the unconscious rules of formation which regulate the emergence of discourse” (Olssen, 1999: 43).

archive: “systems of statements (whether events or things) ... the system of discursivity, the enunciative possibilities and impossibilities”; “the general system of the formation and transformation of statements”; “the law of what can be said, the system that governs the appearance of statements as unique events” (Foucault, *Archaeology of Knowledge*, 1972 [2002]: 145; 146; 148); “the place of discourse, its setting, in which statements occur” (Said, 1974: 30).

bio–politics: “situated and exercised at the level of life, the species, the race, and the large-scale phenomenon of population” (Foucault, *History of Sexuality*, Vol. 1, 1978 [1980]: 137); “a transformation in the nature of the sovereign’s power over its subjects, in which a State’s focus on prohibition and juridical authority is replaced by new interests in the birth rate, education, discipline, health, and longevity of its population” (Deveaux, 1994: 228–229); “Political authorities, in alliance with many others, have taken on the task of the management of life in the name of the well-being of the population as a vital order and of each of it living subjects ... inextricably bound up with the rise of the life sciences, the human sciences, and clinical medicine” (Rose, 2001: 1).

contingency: “[where] the emergence of [an] event was not necessary, but was one possible result of a whole series of complex relations between other events” (Kendall & Wickham, 1999: 5).

disciplinary power: “increases the force of the body (in economic terms of utility) and diminishes these same forces (in political terms of obedience) ... it disassociates power from the body on the one hand, it turns it into an ‘aptitude’, a ‘capacity’ which it seeks to increase; on the other hand it reverses the course of the energy”; “a political anatomy of detail” (Foucault, Discipline and Punish, 1977 [1995]: 138; 139).

disciplines: “social sciences (psychology, demography, statistics, criminology, social hygiene, and so on) were first situated in particular institutions of power (hospitals, prisons, administrations) where their role became one of specialization ... these social science disciplines developed their own rules of evidence, their own modes of recruitment and exclusion, their own disciplinary compartmentalizations, but they did so within the larger context of disciplinary technologies” (Dreyfus & Rabinow, 1983: 160); “instruments and social relationships that individuate people and populations as objects of scientific or quasi-scientific control — since the 18th century they have penetrated and profoundly reorganized justice, health, education, production, warfare, and the family” (Allen, 1991: 426).

discontinuity: “within the space of a few years a culture sometimes ceases to think as it had been thinking up till then and begins to think other things in a new way — probably begins with an erosion from outside, from that space which is, for thought, on the other side, but in which it has never ceased to think from the very beginning” (Foucault, The Order of Things, 1970 [1994]: 50); “one of those great accidents that create cracks not only in the genealogy of history, but also in the simple fact of the statement; it emerges in its historical irruption” (Foucault, Archaeology of Knowledge, 1972 [2002]: 31).

discourse: “body of anonymous, historical rules, always determined in the time and space that have defined a given period, and for a given social economic, geogaphical, or linguistic area” (Foucault, Archaeology of Knowledge, 1972 [2002]: 117); “both an instrument and an effect of power, but also a hindrance, a stumbling block, a point of resistance and a starting point for an opposing strategy ... transmits and produces power;
it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it" (Foucault, History of Sexuality, Vol. I, 1978 [1980]: 101); “is made up of a limited number of statements for which a group of conditions of existence can be defined” (Said, 1974: 28).

discursive formation: “system of a regular dispersing of statements” (Foucault, Questions on Geography, 1980: 63); “what gives the text impulses unity; bound neither by an individual author, a period, a work, nor an idea” (Said, 1974: 30).

discursive practices: “characterized by a delimitation of a field of objects, the definition of a legitimate perspective for the agent of knowledge, and fixing of norms for the elaboration of concepts and theories ... a play of prescriptions that designate its exclusions and choices”; “embodied in technical processes, in institutions, in patterns for general behavior, in forms for transmission and diffusion, and in pedagogical forms which, at once, impose and maintain them” (Foucault, Language–Counter Memory and Practice, 1977: 199; 200); “the demarcation of a field of objects, by the definition of a legitimate perspective for a subject of knowledge, by the setting of norms for elaborating concepts and theories ... presupposes a play of prescriptions that govern exclusions and selections” (Foucault, The Will to Knowledge, 1997a: 11); “organizing principles of an episteme [that] work to make speech possible, organize ideas or concepts, and produce objects of knowledge ... identified, in a more general context, as disciplines, commentary and the author” (Danaher, Schirato & Webb, 2000: 21–22).

intra-discursive: “the objects, the operations, the concepts of the same formation”;

inter-discursive: “dependencies between difference discursive formations, the correlations between natural history, economics, grammar and the theory of representation”;

extra-discursive: “dependencies (between discursive formations and others which have been produced elsewhere than in the discourse” (Foucault, History, Discourse, Discontinuity, 1989 [1996]: 38).
dispositif: "firstly, a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions — in short, the said as much as the unsaid. Such are the elements of the apparatus. The apparatus itself is the system of relations that can be established between these elements. Secondly, what I am trying to identify in this apparatus is precisely the nature of the connection that can exist between these heterogeneous elements ... between these elements, whether discursive or non-discursive, there is a sort of interplay of shifts of position and modifications of function which can also vary very widely. Thirdly, I understand by the term 'apparatus' a sort of — shall we say — formation which has as its major function at a given historical moment that of responding to an urgent need. The apparatus thus has a dominant strategic function" (Foucault, Two Lectures, 1980: 194–195); "specific assemblages of actors, knowledges, practices and techniques" (Garland, 1997: 176).

domination: "sexual identity or liberation [is not] inherently free from or necessarily opposed to domination within our society ... forms of domination which are tied to sexual identity are in fact characteristic of recent developments in our society and are, for that reason, harder to identify" (Dreyfus & Rabinow, 1983: 169).

episteme: "like a world view, a slice of history common to all branches of knowledge, which imposes on each one the same norms and postulates, a general stage of reason, a certain structure of thought ... the total set of relations that unite, at a given period, the discursive practices that give rise to epistemological figures, sciences, and possibly formalized systems ... it is the totality of relations that can be discovered, for a given period, between the sciences when one analyses them at the level of discursive regularities" (Foucault, Archaeology of Knowledge, 1972 [2002]: 211); "unifying system of knowledge; unities that structure particular discourses" (Jose, 1998: 20–21); "a way of understanding the world which is specific to a time and place — a set of understandings which enable sense to be made of the world" (Kendall & Wickham, 1999: 67); "the product of certain organizing principles which relate things to one another (by classifying things and by allocating them meanings and values) and which, as a result, determines how we make sense of things, what we can know, and what we can say" (Danaher, Schirato & Webb, 2000: 17).
eventalization: “making visible a singularity at places where there is a temptation to invoke a historical constant, an immediate anthropological trait or an obviousness that imposes itself uniformly on all. To show that things weren’t ‘necessary as all that’ … a breach of those self-evidences on which our knowledges, acquiescences and practices rest … rediscovering the connections, encounters, supports, blockages, plays of force, strategies and so on which at a given moment establish what subsequently counts as being self-evident, universal and necessary” (Foucault, Questions of Method, 1991c: 76; The Impossible Prison, 1989 [1996]: 277).

dice of truth: “an ensemble of rules … the procedures which lead to a certain result, which can be considered in function of its principles and its rules of procedures, as valid or not, as winner or loser” (Foucault, The Ethic of Care for the Self as a Practice of Freedom, 1987 [1994]: 16); “the procedures which operate in the extortion, constitution and diffusion of certain kinds of knowledge by their mode of social functioning and the hierarchy established between them” (Patton, 1979: 112).

genealogy: “it must record the singularity of events outside any monotonous finality” (Foucault, Language, Counter-Memory, Practice, 1977: 139); “a form of history which can account for the constitution of knowledge, discourses, domains of objects etc., without having to make reference to a subject which is either transcendental in relation to the field of events or runs an empty sameness throughout the course of history” (Foucault, Truth and Power, 1980: 117); “seeks out discontinuities where others found continuous development … it seeks the surface of events, small details, minor shifts, and subtle contours”; “universals of our humanism are revealed as the result of the contingent emergence of imposed interpretations” (Dreyfus & Rabinow, 1983: 106; 108); “a way of analysing multiple, open-ended, heterogeneous trajectories of discourses, practices, and events, and of establishing their patterned relationships, without recourse to regimes of truth that claim pseudo-naturalistic laws or global necessities” (Dean, 1994: 35–36).
government: “to ‘lead’ others (according to mechanisms of coercion which are, to varying degrees, strict) and a way of behaving within a more or less open field of possibilities. The exercise of power consists in guiding the possibility of conduct and putting in order the possible outcome” (Foucault, The Subject and Power, 1982: 789); “acting on the actions of individuals, taken either singly or collectively, so as to shape, guide, correct and modify the ways in which they conduct themselves and others” (Burchell, 1993: 267); “government defines a discursive field in which exercising power is ‘rationalized’. This occurs, among other things, by the delineation of concepts, the specification of objects and borders, the provision of arguments and justifications etc. … ‘government’ also signified problems of self-control, guidance for the family and for children, management of the household, directing the soul, etc.” (Lemke, 2001: 191).

government rationality: “on the one hand, that of codification/prescription (how it forms an ensemble of rules, procedures, means to an end, etc.), and on the other, that of true or false formations (how it determines a domain of objects about which it is possible to articulate true or false propositions” (Foucault, Questions of Method, 1991c: 79); “a way or system of thinking about the nature of the practice of government (who can govern, what governing is, what or who is governed), [and] making that form of activity thinkable and practicable both to its practitioners and to those upon whom it is practiced” (Gordon, 1991: 3); “systematic, explicit, discursive problematization and codification of the art or practice of government, as a way of rendering the objects of government in a language that makes them governable” (Dean, 1994: 187); “ways of thinking and styles of reasoning that are embodied in a particular set of practices” (Garland, 1997: 184).

government technologies: “correlations and systems of the dominant feature” (Foucault, Security, Territory, Population, 2007: 8); “a domain of strategies, techniques and procedures through which different forces seek to render programs operable, and by means of which a multitude of connections are established between the aspirations of authorities and the activities of individuals and groups” (Rose & Miller, 1992: 183).

technologies of the self: “Technologies of the self are the specific practices by which subjects constitute themselves as subjects within and through systems of power, and which often seem to be either ‘natural’ or imposed from above”
permit individuals to perform, by their own means, a certain number of operations on their own bodies, on their own souls, on their own thoughts, on their own conduct, and this in such a way that they transform themselves, modify themselves, and reach a certain state of perfection, of happiness, of purity, of super—natural power, and so on” (Foucault, *Sexuality and Solitude*, 1997a: 177).

**knowledge**: “that of which one can speak in a discursive practice, and which is specified by that fact: the domain constituted by the different objects that will or will not acquire a scientific status; knowledge is also the space in which the subject may take up a position and speak of the objects with which [she] deals in [her] discourse; knowledge is also the field of coordination and subordination of statements in which concepts appear, and are defined, applied and transformed; lastly, knowledge is defined by the possibilities of use and appropriation offered by discourse” (Said, 1974: 31).

**liberalism**: “a permanent problematization of the limits of government” (Dean, 1994: 195).

**positivity**: “to describe discourse in accordance with rarity, the dispersion of an exteriority, and a specific form of accumulation” (Foucault, *Archaeology of Knowledge*, 1972 [2002]: 125).

**power**: “it is a mode of action which does not act directly or immediately on others. Instead it acts upon their actions: an action upon action, on existing actions or on those which may arise in the present or future” (Foucault, *The Subject and Power*, 1982: 789); “power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name one attributes to a complex strategical relationship in a particular society” (Foucault, *History of Sexuality*, Vol. 1, 1978 [1980]: 93).

**pastoral power**: “the shepherd must render an account — not only of each sheep, but of all their actions, all the good or evil they are liable to do, all that happens to them ... by helping [her] flock to find salvation, the shepherd will also find [her] own ... the shepherd—sheep relationship as one of individual and complete dependence ... the shepherd must be informed as to the material needs
of each member of the flock and provide for them when necessary. [She] must know what is going on, what each of them does — [her] public sins. Last and not least, [she] must know what goes on in the soul of each one, that is, [her] secret sins, [her] progress on the road to sainthood ... All those Christian techniques of examination, confession, guidance, obedience, have an aim: to get individuals to work at their own 'mortification' in this world" (Foucault, Omnes et singulatim, 1981: 236–239).

confession: "authenticated by the discourse of truth, [what she] was able or obliged to pronounce concerning [herself]. The truthful confession was inscribed at the heart of the procedures of individualization by power"; "obligation to confess is now relayed through so many different points, is so deeply ingrained in us, that we no longer perceive it as the effect of a power that constrains us; on the contrary, it seems to us that truth, lodged in our most secret nature, 'demands' only to surface; that if it fails to do so, this is because a constraint holds it in place, the violence of a power weighs it down, and it can finally be articulated only at the price of a kind of liberation" (Foucault, History of Sexuality, Vol. 1, 1978 [1980]: 58–59; 60).

practices: “places where what is said and what is done, rules imposed and reasons given, the planned and the taken for granted meet and interconnect” (Foucault, Questions of Method, 1991c: 75).

problematisation: “the development of a domain of acts, practices, and thoughts that seem to me to pose problem for politics ... I have never tried to analyze anything whatsoever from the point of view of politics, but always to ask politics what it had to say about the problems with which it was confronted. I question it about the positions it takes and the reasons it gives for this; I don't ask it to determine the theory of what I do" (Foucault, Polemics, Politics and Problematisations, 1997a: 114–115).

programmes: “sets of calculated, reasoned prescriptions in terms of which institutions are meant to be reorganized, spaces arranged, behaviours regulated” (Foucault, Questions of Method, 1991c: 80).
self-formation: “a process in which the individual delimits that part of [herself] that will form the object of [her] moral practice, defines [her] position relative to the precept [she] will follow, and decides on a certain mode of being that will serve as [her] moral goal” (Foucault, *History of Sexuality*, Vol. 2, 1985 [1992]: 28).

arts of existence: “those intentional and voluntary actions by which [women] not only set themselves rules of conduct, but also seek to transform themselves” (Schaff, 2004: 61).

ascetical existence: “an exercise of self upon self by which one tries to work out, to transform one’s self and to attain a certain mode of being” (Foucault, *The Ethic of the Care of the Self as a Practice of Freedom*, 1987 [1994]: 2).

care of the self: “[the] name of the ethical principle that leads people to cultivate themselves, that is to work to improve themselves … establishes its necessity, presides over its development, and organizes its practice”; “[in] earlier times this was a matter of self–mastery, but over the course of history it became more a matter of learning to shape one’s own inner character” (Foucault, *History of Sexuality*, Vol. 3, 1986 [1990]: 43; 67).

strategy: “the means employed to attain a certain end; it is a question of rationality functioning to arrive at an objective … to designate in which a partner in a certain game acts with regard to what the [she] thinks should be the action of the others and what [she] considers the others think to be [her] own; it is the way in which one seeks to have the advantage over others … to designate the procedures used in a situation of confrontation to deprive the opponent of [her] means of combat and to reduce [her] to giving up the struggle; it is a question therefore of the means destined to obtain victory” (Foucault, *The Subject and Power*, 1982: 224–225); “the operationalization of the social field in different ways, such as the attempt to produce an orderly, obedient, productive population” (Patton, 1979: 66).

the person is active" (Rabinow, 1984: 11); "the relations which human beings have established with themselves" (Rose, 1996a: 130).

**ethical subjectification:** "a mode of being for the subject, along with a certain way of acting, a way visible to others" (Foucault, *Ethics for the Concern of Self*, 1989 [1996]: 436); "determines how the individual is supposed to constitute [herself] as a moral subject of [her] own actions" (Foucault, *On the Genealogy of Ethics*, 1997a: 263); "practices, techniques, and discourses of the government of the self by the self, by means of which individuals seek to know, decipher, and act on themselves" (Dean, 1994: 156); "a mode of being, a way of relating to self and thereby others" (Smart, 1998: 84).

**government subjectification:** "ways in which various authorities and agencies seek to shape the conduct, aspirations, needs, desires, and capacities of specified categories of individuals, to enlist them in particular strategies and to seek defined goals" (Dean, 1994: 156).

**political subjectification:** "practices and discourses that treat individuals as if they were political subjects in their diverse forms, particularly the treatment of individuals as sovereign subjects or citizens within a self-governing political community under the conditions of liberal democracy" (Dean, 1994: 155).

**ethical substance:** "the way in which the individuals has to constitute this or that part of [herself] as the prime material of [her] moral conduct" (Foucault, *History of Sexuality*, Vol. 2, 1985 [1992]: 26).

**thought:** "what allows one to step back from this way of acting or reacting, to present it to oneself as an object of thought and to questions it as to its meaning, its conditions, and its goals ... for a domain of action, a behavior, to enter the field of thought, it is necessary for a certain number of factors to have made it uncertain, to have made it lose its familiarity, or to have provoked a certain number of difficulties around it" (Foucault, *Polemics, Politics and Problematizations*, 1997a: 117); "Practice is a set of relays from one theoretical point to another, and theory is a relay from one practice to another" (Deleuze quoted in Foucault, 1989 [1996]); "In this sense theory does not express,
translate, or serve to apply practice: it is practice. Theoretical abstractions or thought are only realized through material and concrete forms, but are also what make material conditions possible. Thought is never outside of practice, nor is practice without thought" (Foucault, *Intellecuals and Power*, 1989 [1996]: 74–75); “the material surfaces of appearances which result from the operation of a dispersed collection of public historical apparatuses” (Kendall & Wickham, 1999: 37).

**truth:** “centered on the form of scientific discourse and the institutions that produce it; it is subject to constant economic and political incitement (the demand for truth, as much for economic production as for political power); it is the object, under diverse forms, of immense diffusion and consumption (circulating through apparatuses of education and information whose extent relatively broad in the social body, notwithstanding certain strict limitations); it is produced and transmitted under the control, dominant if not exclusive, of a few great political and economic apparatuses (university, army, writing, media); finally, it is the issue of a whole political debate and social confrontation (‘ideological’ struggles’); “a system of ordered procedures for the production, regulation, distribution, circulation, and operation of statements … linked in a circular relation with systems of power that produce and sustain it, and to effects of power which it induces and which extends it — a regime of truth” (Foucault, *Truth and Power*, 2000: 131; 132).

**unity of discourse:** “the interplay of the rules that make possible the appearance of objects during a given period of time: objects are shaped by measures of discrimination and repression, objects that are differentiated in daily practice, in law, in religious casuistry, in medical diagnosis, objects that are manifested in pathological descriptions, objects that are circumscribed by medical codes, practices, treatment, and care … the interplay of the rules that define the transformations of these different objects, their non-identity through time, the break produced in them, the internal discontinuity that suspends their permanence” (Foucault, *The Archaeology of Knowledge*, 1972 [2002]: 36).
Appendices

Appendix I: Community Service Orders and Parole in New South Wales

Community Service Order schemes such as parole, are regulated by the Crimes (Administration of Sentences) Act 1999 and the Crimes (Sentencing Procedure) Act 1999, the Crimes (Administration of Sentences) Amendment Act 2001, the Common Wealth Crimes Act (The Crimes Act 1914), and the Crimes (Sentencing Procedure) Regulations 2000. Under this legislation, a sentencing judge sets a non-parole period for a prison term (the minimum period for which the prisoner must remain in prison) and any other additional term that is not part of the minimum term of imprisonment imposed. According to the Crimes (Sentencing Procedures) Act 1999, s. 44–46, the additional term is generally 1/3 of the minimum sentence and cannot exceed the non-parole period unless it is decided there are extenuating circumstances that warrant such an exception. The cumulative sentence cannot exceed or fall short of the maximum or minimum period of imprisonment imposed.

The non-parole period is generally 3/4 of the prison sentence. For prisoners sentenced to six months or less, no parole period is set. The non-parole period will vary for individuals sentenced to life or who are considered ‘serious offenders’. The sentencing judge may also decide that there are special circumstances for the non-parole period to exceed 3/4 of the sentence. If sentenced to prison for three years or less, prisoners are automatically released on parole at the end of their minimum term. For those serving more than three years, release on parole after the minimum term of imprisonment is at the discretion of the Parole Board. As of 10 October 2005, the Parole Board was renamed the Parole Authority. With early release, prisoners are issued a conditional parole order with conditions specified under the legislative and regulative provisions or with conditions imposed by the sentencing judge (see Appendix II). Parole conditions are regulated under the Crimes (Administration of Sentences) Regulation 2001, s. 212–225. The conditions imposed by a sentencing judge might include prohibiting or restricting associating with a specified person or from frequenting or visiting a specified place or district under the Crimes (Sentencing Procedures) Act 1999, s. 51. According to the Crimes (Administration of Sentences) Regulation 2001, s. 236–233. The Parole Authority, as the governing body overseeing the granting of parole, has the legislative authority to
change the conditions of parole at any time during the parole period and can also revoke parole if the any parole conditions are breached or if there is a reconviction for a new 'offence'. The Parole Authority can also impose specific conditions as considered necessary for the ‘reentry’ or ‘rehabilitation’ of the prisoner while serving the remainder of their sentence in the community. Violations of the conditions can result in the revocation of the parole order and subsequent re-imprisonment to serve out the remainder of the sentence or attempt to regain parole. Under the Crimes (Administration of Sentences) Amendment (Parole) Act 2004, if parole is revoked, re-parole cannot be considered until 12 months has expired, including those who have less than a 12 month sentence to serve (see also Simpson, 1999 for a more detailed overview of parole).
Appendix II: Crimes (Administration of Sentences) Act 1999, Release on Parole

No 93, Part 6, Parole, Division 1

128 Conditions of Parole Generally

(1) A parole order is subject to the following conditions:
(a) the standard conditions imposed by this Act or the regulations,
(b) any additional conditions imposed by the sentencing court (including any conditions that are, under section 51 (1AA) of the Crimes (Sentencing Procedure) Act 1999, taken to be included in the order),
(c) any additional conditions imposed by the Parole Authority under this section.

(2) The Parole Authority may from time to time, by written notice given to the offender:
(a) impose additional conditions on a parole order, or
(b) vary or revoke any additional conditions imposed by it or by the sentencing court on a parole order.

(2A) The conditions of a parole order must include conditions giving effect to a post-release plan, prepared by the Probation and Parole Service and adopted by the Parole Authority, in relation to the offender.

(3) Without limiting subsection (2A), but subject to section 128B, the conditions of a parole order may include conditions requiring that the offender to whom the order relates be subject to supervision prescribed by the regulations, during the period specified by or under the order or the regulations.

(4) This section does not permit the Parole Authority:
(a) to revoke any standard conditions imposed by this Act or the regulations, or
(b) to impose any additional conditions, or vary any additional conditions imposed by it or by the sentencing court, so as to be inconsistent with any standard conditions imposed by this Act or the regulations.

128A Conditions of parole as to non-association and place restriction
(1) The conditions to which a parole order is subject may include either or both of the following:
(a) provisions prohibiting or restricting the offender from associating with a specified person,
(b) provisions prohibiting or restricting the offender from frequenting or visiting a specified place or district.

(2) A condition referred to in subsection (1) (a) or (b) is suspended:
(a) while the offender is in lawful custody (otherwise than while unescorted as referred to in section 38 (2) (a), and
(b) while the offender is under the immediate supervision of a public servant employed within the Department of Juvenile Justice pursuant to a condition of leave imposed under section 24 of the Children (Detention Centres) Act 1987.

(3) An offender does not contravene a prohibition or restriction as to his or her association with a specified person:
(a) if the offender does so in compliance with an order of a court, or
(b) if, having associated with the person unintentionally, the offender immediately terminates the association.

(4) An offender does not contravene a requirement not to frequent or visit a specified place or district if the offender does so in compliance with an order of a court.

(5) In this section, associate with means:
(a) to be in company with, or
(b) to communicate with by any means (including post, facsimile, telephone and email).

128B Conditions of parole as to lifetime supervision

(1) This section applies to an offender serving an existing life sentence within the meaning of Schedule 1 to the Crimes (Sentencing Procedure) Act 1999, being an offender in respect of whom a parole order is made as a consequence of the Supreme Court having set a non-parole period for the sentence (but not a specified term) under clause 4 of that Schedule.
(2) It is a condition of a parole order for an offender to whom this section applies that, for the whole of the period for which the parole order is in force:

(a) the offender is to be subject to supervision, as prescribed by the regulations, and

(b) in relation to that supervision, the offender must comply with such obligations as the Commissioner may from time to time impose on the offender.

Note: Unless the parole order is sooner revoked, the effect of this provision is supervision for life.

(3) This section does not permit the Commissioner to impose any obligations that are inconsistent with any standard conditions imposed by this Act or the regulations or any additional conditions imposed by the sentencing court or the Parole Authority.

As of December 24, 2007
Appendix III: Summary of Affairs of the NSW Department of Corrective Services

(Includes the State Parole Authority and the Serious Offenders Review Council)

Under the terms of sections 14(1)(b) and 14(3) of the Freedom of Information Act 1989 (FOI Act), the Department of Corrective Services is required to publish an up-to-date Summary of Affairs at six-monthly intervals. The information contained in this Summary of Affairs is correct as at 15 December 2006.

Section 1 — Policy Documents
Section 15(1)(c) of the FOI Act requires the Department to make each of its policy documents, as defined by section 6 of the FOI Act, available for inspection and purchase by members of the public. Section 15(2) of the FOI Act allows the Department to delete from a policy document information that would, if included, cause the document to be an exempt document ...

Offender Policy Unit
Community Offender Services Policy and Procedure Manual
Section A Case Management

Full deletions
1.10 Supervision Level Assessment/Interim Service Delivery Standards
1.12.3 Alerts Screen
6.7 Submit Assessments for Approval

Full deletions — sections
6 Escorts
7.7 Inmates Access to Private Medical Practitioners
7.16 Compassionate Leave
12.6 Correctional Centre Security
12.8 Correctional Centre Gates
12.9 Use of Force
13 Serious Incidents
22 Staff Administration
23 Category AA and Category 5 Inmate: Management Regime
Partial deletions — sections
2.6.18 Procedures for Court Cell complexes
2.8 Correctional Centres
2.17.2 Inmate Transfer and Escorts Procedures
2.18 The Serious Offenders Review Council — High Security Inmate Management Committee — Escort procedures for extreme high security inmates
2.26 Placement Location for specific programs:
Sex offender programs MSPC Area 3 and Area 5
Criteria for custodial witness protection program CWPP — Special Purpose Centre and Dawn Deloas Centre
Protection Status — Violent Predators Intervention Program — Point 6.21 External Escorts

8.31.2 Types of Video Conference Systems used in correctional centres
10.1.20 Cell Allocation
10.2.6 Inmate Identification Cards and Cell Cards
10.2.6.1 Inmate Imaging System
10.2.6.2 Replacements
10.2.8 Gaol Issue Clothing at Initial Reception
10.2.8.1 Initial Clothing Issue at Reception — Male Inmates
10.2.8.2 Additional Issue of Inmate Clothing — Male Inmates
10.2.8.3 Initial Clothing Issue at Reception — Female Inmates
10.2.8.4 Additional Issue of Inmate Clothing — Female Inmates
10.2.8.5 Reception — Hygiene Items
10.3.2.7 Medical Screening
12.10.6.1 Exercise Stop, Detain and Search Powers in Targeted Operations
Appendix IV: Colonial Secretary's Office, 1830, Ticket-of-Leave Conditions

Sydney, January 1st

I. An Absolute Pardon, when issued under the Great Seal of England, but not before, restores the Individual to all the Rights of a Subject in every part of His Majesty's Dominions, from the Date of the Instrument.

II. A Conditional Pardon, when approved by His Majesty through the Secretary of State, but not before, restores the Rights of Freedom, from the Date of the Instrument, within the Colony. But it bestows no Power of leaving the Colony, and no Rights whatsoever beyond its limits.

This and the former, when once confirmed according to Law, cannot be revoked; and the holders are of course equally empowered to pursue their lawful occupations in any Part of the Country, as if they had never been convicted.

III. A Ticket of Leave is a permission to the Individual to employ himself for his own benefit, and to acquire Property, on condition of residing within the District therein specified; of presenting himself and producing his Ticket before the Magistrates at the Periods prescribed by the Regulations; and of attending Divine Worship Weekly, if performed within a reasonable distance. But he is not allowed to remove into another District without the express Sanction of Government entered on the face of his Ticket; the Ticket itself is liable to be resumed at any Time at the pleasure of the Governor; and, in that case, the Individual reverts to the situation of a Prisoner of the Crown in every respect.

IV. A Ticket of Exemption from Government Labor differs from a Ticket of Leave, in conferring no permission for the Individual to Employ himself for his own Benefit or to acquire Property, but simply the privilege of residing until the next 31st December, with the Person therein named, generally a Relation, in some specific District, and no other. In requiring the Attendance at Muster and Divine Worship, it is as strict as a Ticket of Leave, and, like it is liable to be resumed at any Time by His Excellency's Order; it is
also void, if not renewed on the 1st January, every Year, and the holder then becomes liable to be treated as a Prisoner of the Crown, unlawfully at large.

The Final Ticket-of-Leave Regulations NSW, 19th April, 1849

All tickets-of-leave are issued for particular districts, named in the ticket-of-leave; or passports, to enable the holder to remain in the service of masters beyond the boundaries of location.

Every ticket-of-leave holder is required within 14 days after his arrival in his district to report, either personally or in writing, to the Clerk of Petty Sessions of his District, his name and sip, residence, the name of his master or employer, his trade or calling, or his mode of maintaining himself; and also to do so between the 1st and 14th January, in every year. Any ticket-holder failing to comply with this order will be reported to the Principal Superintendent of Convicts with a view to having his indulgence cancelled.

If he is on passport he is to make his report to the Commissioner of Crown Lands of the district in which he is employed, instead of the bench.

He is required to report every change of service or residence in the district within 14 days of its taking place; and if beyond the boundaries, such change of service can only be made with the authority of the Commissioner first obtained for that purpose.

Immediately after each muster, the magistrate under whose superintendence it is made will report the names of all absentees to the Principal Superintendent of Convict, for the Governor's information, and with a view to the cancellation of the prisoner's ticket.

The district in which a ticket-of-leave is considered to have effect is the police district named in such ticket, according to the boundaries fixed by the Government.

The bench of magistrates or the police magistrate of the district, will, whenever they think it necessary, interrogate he holder of a ticket-of-leave, respecting his means of subsistence and manner of life, and if he will render a special repot of the case to the Principal Superintendent of Convicts for the Governor's information.
No ticket-of-leave holder is to be out of his district without a pass, except in the execution of his duties as a constable.

Passes to leave the district are to be given only by the police magistrate, or by two magistrates of the district acting in Petty Sessions, and every such pass must be countersigned by the clerk of the bench.

Such passes can only be granted for periods not exceeding 14 days, and no passes can be renewed, nor any new pass granted to the person until after the expiration of 2 months from the date of the former one.

Forms of the passes are obtainable at the police office, upon payment of 2/6 fee.

Passes for longer period than 14 days can only be granted by the Principal Superintendent of Convicts, on the application of the ticket-of-leave holder, or his master, through the bench magistrates in his district.

The Principal Superintendent of Convicts is the only person who can grant permission to any holder of a ticket-of-leave to change his district; and all applications to him for that purpose, or for permission to reside beyond the boundaries on passports, must be made through the bench of magistrates of the district in which the ticket-of-leave holder resides, accompanied by a fee of 2/6, and the bench is required to forward such applications, with their remarks thereon, to the Principal Superintendent of Convicts.

The breach of any of these regulations will subject a ticket-of-leave holder to be deprived of his indulgence, and to be returned to the service of Government.

No ticket-of-leave holder for a country district is allowed to be in Sydney without a pass; and any such person found there without authority will have his ticket cancelled, and be immediately removed to Cockatoo Island.

A ticket-of-leave who forfeits his indulgence, from a breach of the regulations, or any other cause, returns to the position of an ordinary prisoner of the Crown, and forfeits all
the privileges he possesses while holding his ticket-of-leave, and can be called upon to serve a probation of 3 years before his indulgence is restored to him.

The holder of a ticket is liable to be punished summarily by magistrates in petty sessions for the following offences, namely, misdemeanours, pilfering, simple larcenies under £5. Punishment — sentence to irons for 6 to 12 months. Drunkenness, absconding from district, or when beyond the boundaries from the service for which he holds passport, or the disorderly or dishonest conduct — the forfeiture of his ticket. In addition to this, as an ordinary prisoner of the Crown, he may be punished or neglect of work, disobedience of orders, or absconding, by fifty lashes, 2 months to the treadmill or imprisonment with hard labour, or 14 days’ solitary confinement.

That any convict absconding from district, or the service of his employer, during the subsistence of his sentence of transportation, shall be liable to be tried in a summary way by the tribunal authorized to take cognizance of such offences, although at the date of his apprehension his original and additional sentences may have expired by effluxion of time, and he will be liable to be punished in the same way as if the period of his original term had not expired.

All sentences to irons, to the roads, to imprisonment or the treadmill, are cumulative on a prisoner’s original sentence, and have to be served in addition to such original term: for example, if a prisoner’s sentence is 14 years, and he receives a sentence of 6 months in irons, he will not be free until he has served 14 years and 6 months from the date of original conviction.

A ticket-of-leave holder is also subject to the provisions of the Master’s and Servant’s Act, by which he may be punished by imprisonment, or forfeiture of wages, for absence from his employer’s service, for disobedience, or neglect or orders, or other misconduct in service. Or if he obtains money in advance from an employer and fails to enter his service, or fails to perform his agreement in any way; for all these offences he is liable to punishment under the above Act, irrespective of any other punishment, as a prisoner, where he offence is of a criminal nature. But under the same Act a ticket-of-leave holder can also compel his employer to perform his part of the contract, in all respects as effectually as if he (the prisoner) were a free man.
Any ticket-of-leave holder who has held indulgence with good conduct for 3 years, certified to by three magistrates, or persons of respectability known to the Government, may apply by petition to the Governor, through the Principal Superintendent of Convicts, for a conditional pardon; this indulgence enables the holder to exercise all the rights of a free subject, and to proceed to any part of the world, excepting also the place where he was convicted.
Appendix V: Parole of Prisoners Act (1967), Parole Order

The Parolee shall be of good behaviour and not violate the law.

The Parolee shall subject himself to the Supervision and guidance of a parole officer and carry out his instructions.

The Parolee shall report to a parole officer or other person nominated by a parole officer, in them manner and at the times directed and shall be available for interview, at such times and places as the parole officer or his nominee may from time to time direct.

The Parolee shall enter into employment arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change his employment before such changes occurs, or if this be impracticable, then within such a period as may be directed by the parole officer.

The Parolee shall reside at an address arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change his address before such change occurs, or if this be impracticable, then within such a period as may be directed by the parole officer.

The Parolee shall not associate with any persons specified by the parole officer.

The Parolee shall not frequent or visit any place or district designated by the parole officer.
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