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# Refusing White Privacy

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REFUSING WHITE PRIVACY

by

OLIVIA DUNBAR

A master's thesis submitted to the Graduate Faculty in Women's and Gender Studies in partial fulfillment of the requirements for the degree of Master of Arts, The City University of New York

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Refusing White Privacy

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This manuscript has been read and accepted for the Graduate Faculty in Liberal Studies in satisfaction of the thesis requirement for the degree of Master of Arts.

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ABSTRACT

Refusing White Privacy

by

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In “Refusing White Privacy” I look at theories in White Data and Surveillance Studies around what data is, how it is made to exist, and for whom, in order to intervene in the conceptualization of data as an inevitable residue of human life and relationship. Through this intervention, I show that the alleged crises of privacy ushered in by allegedly non-racial smart technologies (a preoccupation in WDSS) is underwritten by racializing technologies from the Antebellum era to the present.

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## A NOTE ON TERMINOLOGY

In this paper I use the term white Data and Surveillance Studies (WDSS) to name the dominant strand of Data and Surveillance Studies in which race/gender/sexuality/ability/status/ and environment are taken as ‘other’ elements of the world, apart from data and surveillance, that can be analyzed in relation to data and surveillance as intersecting areas of interest. In WDSS, race/gender/sexuality/ability/status/environment are not seen as foundational to the logics of data and surveillance that emerge in tandem with the modern world/bureaucratic state and market.<sup>1</sup>

To give a concrete, if not banal example that is characteristic of WDSS, here is an endorsement that David Lyon, the Director of the Surveillance Studies Centre at Queen’s University and a leading scholar in WDSS, wrote for the 2015 volume *Feminist Surveillance Studies*: “surveillance cannot but be about social sorting, so it must also always be about inequalities. This book prods and provokes its readers to focus critically on those inequalities so that the study of surveillance never slips into complacency or complicity” (Dubrofsky and Magnet, 2015). For contrast, *Feminist Surveillance Studies* self-describes its contributors as using feminist theory “to expose the ways in which surveillance practices and technologies are tied to systemic forms of discrimination that serve to normalize whiteness, able-bodiedness, capitalism, and heterosexuality” (2015). In Lyon’s terms, surveillance is about social sorting and inequality, and yet the study of surveillance can slip into complacency or complicity if it does not focus on social sorting and inequality. What then would be the focus of surveillance studies, if it did not focus on surveillance? In my terms, this logic of

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<sup>1</sup> Here I am referring to conceptions of ‘the modern world/bureaucratic state and market’ from Black studies, specifically from the works of Paul Gilroy and Cedric Robinson, who theorize modernity and the capitalism from transatlantic slavery through their concepts of the Black Atlantic and racial capitalism respectively. In their concepts, Blackness as both real object and object of knowledge is not marginal to modernity and the market, rather it is central to and enmeshed with modernity and the market.

In WDSS and other fields deploying white ‘universalist’ conceptions of the world, ‘the modern world/bureaucratic state and market’ is theorized as a central social, political and economic break in history that in non-racial, occurring alongside ‘developments’ in race and ethnicity that are marginal to it.

separating the study of something from the thing itself is part of the practice of WDSS, wherein relation and sociality are expressed as objects of study and part of a white temporal logic of temporariness, as in white people feeling “temporarily bad about black suffering” (Rankin, 2015). In WDSS Blackness and anti-Blackness can be studied temporarily, but never orient the study of white data and surveillance towards the abolition of an anti-Black world.

## INTRODUCTION

In this paper I place Blackness and anti-Blackness at the foundations of the modern world/bureaucratic state and market. I look at theories in WDSS around what data is, how it is made to exist, and for whom, in order to intervene in the conceptualization of data as an inevitable residue of human life and relationship. Through this intervention, I show that the alleged crises of privacy ushered in by allegedly non-racial smart technologies (a preoccupation in WDSS) is underwritten by racializing technologies from the Antebellum era to the present. By looking as far back as the Antebellum era, I connect racializing technologies during slavery to racializing smart technologies today, and demonstrate that white privacy requires the destruction of Black sociality through the racialization, capture and representation of Blackness as criminality and property.

In section one, “Data as Capture,” I intervene in the popular idea in WDSS that *data* – meaning ‘a thing given’ – would be better known as *capta*, or ‘a thing taken.’ I discuss how this inversion or antonym maintains the premise that data exists whether it is made to or not. I challenge this premise by following the etymological method that scholars in WDSS have used to arrive at *capta*, and come myself instead to the word captive. Beyond of the binary of give and take that WDSS establishes, my use of the word captive grounds data and surveillance in racial hierarchies. Centering the captive, I examine the relationship between racism – “the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death” (Gilmore, 247) – and machine learning to demonstrate how white theories of ‘artificial intelligence’ maintain and protect privacy as property ownership. I analyze data in the context of the algorithmic analysis it makes possible to reflect on networked carceral technologies and predictive policing as technologies that code carceral space.

In section two, “Code/space,” I perform a counter-reading of the term code/space, a keyword and theory in WDSS introduced by geographers Rob Kitchin and Martin Dodge. Kitchin and Dodge discuss private or home space prior to computer code as a space of sanctuary,

possession and security. In contrast, code/space breaches the privacy of home space and private property ownership through the intrusion of the market into the domestic sphere. This intrusion breaks the barrier between public spaces of production, and private spaces of reproduction. Code/space as theorized by Kitchin and Dodge assumes that the user or inhabitant of code/space as self-possessing and free, that code/space does not impact the physical body or flesh of the human user or inhabitant. To counter this conception of code/space and privacy that does not address the body, I analyze technologies of e-carceration including ‘risk assessment’ software, ankle monitors, and house arrest apps that are transforming home spaces through code in predominantly Black and Brown communities. Through code/spaces of e-carceration, I draw an expanded time-line of WDSS that traces code, data and surveillance to the Antebellum era and racial slavery. I connect capture and e-carceration to the coding of the Black body as property, specifically in the capture of the reproductive systems and interiority of enslaved women of African descent. In my reading of carceral space across time, I aim to connect private spaces of white sociality and sovereignty to the practices of anti-Black capture that define carceral space.

In the last section, “The Mobilization of White Privacy,” I follow the time-space named by “plantation futures” (McKittrick, 2013) to relate digital computing and white privacy to an older technology, analogue photography, that created and secured code/space and generated criminal databases long before the advent of digital computer code and algorithms. I look at a specific moment in American history at the end of the 19th century when the technology of analogue photography was becoming mobile and increasingly ubiquitous in urban areas. As studio photography ceased to be the dominant site of photographic capture, and street or candid photography began its takeover, propertied whites questioned how to address the threat posed by nonconsensual photographic representation to their own privacy and experience of self-possession.

## DATA AS CAPTURE

To enter the question of what data is, how it is made to exist, and for whom, I take up a frequently cited etymological intervention from WDSS. In this intervention, WDSS scholar Rob Kitchin explores the etymology of the word data. Kitchin notes that data is a Latin word that means “a fact given,” from the Latin verb *dare*, meaning “to give” (2014, 2). Citing sociologist Howard Becker, Kitchin suggests that data is a misnomer and that *capta*, from the Latin verb *capere* meaning “to take, seize,” would more accurately describe what “we” refer to when “we” say data (2). This gesture is part of a movement in WDSS to critically interrogate the notion that data is freely given. Through *capta*, scholars in WDSS consider that individuals own or possess their own data before it is taken by either private or public institutions, usually without compensation other than the alleged improvement of services for the individual as consumer/user/citizen. While purporting to recognize that data is taken, WDSS scholars continue to treat data as given: something that exists ‘naturally’ in and of the world, that can be taken with or without consent.

In his discussion of etymology and the word data, Kitchin cites a passage by Jensen, quoted in Becker (1952), to establish a scholarly precedent for thinking *capta*:

It is an unfortunate accident of history that the term datum...rather than captum... should have come to symbolize the unit-phenomenon in science. For science deals, not with ‘that which has been given’ by nature to the scientist, but with ‘that which has been taken’ or selected from nature by the scientist in accordance with his purpose, and to a degree even constructed out of nature by the scientist’s preliminary assumptions as to which of “the things which have been given” are also to be “taken” or observed.

The excerpt up to word “purpose” has been widely circulated since Kitchin’s 2014 book *The Data Revolution*. However, when I focus on the remainder of the excerpt, I see an emphasis on the relationship between the scientist’s conception of self as observer/taker, and the scientist’s perception of ‘everything else’ as observable/given. This relationship conceives of a subject whose faculties of perception turn others into objects whose being is *for* the subject. Following this logic, data is like air, it is always around, but is encountered by the breather only when they breathe,

although their act of breathing is inevitable and involuntary, or given. As if the scientist cannot help but take that which they observe. Following Kitchin's venture into etymology, I want to see what other meanings can be derived from *capere* in relation to data and surveillance to destabilize the binary of give and take.

Alongside its meaning "to take, seize," *capere* is also the root of the word Perceive. Perceive comes from the Latin verb *percipere*, meaning to seize and understand, from *per* (entirely) + *capere* (to take, seize). Read in relation to "to take, seize," perception is not a neutral onto-biological phenomenon that occurs in the space of exchange between observer and observed. Rather as a biosocial affect, it is grounded in sociogeny, Frantz Fanon's term that intervenes in Freudian psychoanalysis that attributes the development of both the individual subject (the human) and the collective group (family, tribe, race) to ontogenetic inheritance and biological or evolutionary disposition (2008). With sociogeny, Fanon proposes that both the individual subject and collective group are socially produced modes of being human that co-constitute an anti-Black world and exclude Blackness from the category of the human. The experience of what it is like to be human (defined through its exclusion of Blackness) is therefore mediated by anti-Blackness. Within the framework of sociogeny, perception is a socialized process mediated by anti-Blackness, not a neutral biological phenomenon. In an anti-Black world, the perception of other social phenomena – like crime, data, or capture – are attributed to that which is 'given' ontogenetically in 'nature' and 'biology,' like culture, language or geography (Blackness). How to move beyond the binary of give and take? Refuse anti-Blackness.

In addition to *capta* and perceive, *capere* is also the root of the words captive and captivity. In Kitchin's effort to acknowledge the power dynamics at play in data, he shifts from thinking of data as a thing given to a thing taken, and presumes that those from which things are taken are human, self-possessing, free subjects or communities. In shifting from give to take, it is not the ruse of benevolence that is exposed, but rather the ruse of whiteness. From within the framework of

sociogeny, however, the opposite of give is not take, it is refuse – the refusal of anti-Blackness, of capture and property. In WDSS, privacy is given as a primary mode of refusing the extraction of data (performed by state and corporate institutions). In this context, refusal is predicated on the self-possession of propertied whites. How does the captive and their refusal of captivity challenge theories of privacy in WDSS? To answer this question, I begin with an analysis of the increasing use of digital computing and algorithms in predictive policing. In my analysis, I relate the notion of precedent to prediction to demonstrate how privacy for propertied whites is underwritten by the criminalization and capture of Blackness.

A wide range of institutions use algorithms as part of their day-to-day operations. Many big tech corporations, like Alphabet and Amazon, design their own algorithms in-house as an integrated component of their platforms, while the majority of state or ‘public’ institutions, like police departments, school districts and child protective services, purchase software from private-sector companies who specialize in algorithm design (Pangburn, 2019). Both big tech corporations and ‘public’ institutions make data exist through the surveillance of user engagement with their platforms.<sup>2</sup> Big tech corporations use algorithms to make all kinds of decisions, from what search results will appear first, to what images will be censored, to what speech will be considered hateful (Noble 2018). ‘Public’ institutions use algorithms to make all kinds of decisions too, from what neighborhoods will be policed, to which teachers will be fired, to which mothers will receive child care vouchers (O’Neill, 2016). Whether online or ‘in real life’ (IRL), algorithms are replacing human beings as decision makers. However, human beings are the programmers of algorithms, and they are also the creators of the data sets that are used in algorithm design. In this sense, although ‘artificially

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<sup>2</sup> In this paper I consider the binary between public and private used in WDSS and other settler colonial studies as a naturalized function of whiteness. Within whiteness, public is used to denote property that is not owned by an individual, but rather by the state. This formulation of public is underwritten by technologies of settler colonialism and transatlantic slavery that continue to generate white notions of property, privacy and publicness through the death, capture and enclosure of Black and Indigenous peoples.

intelligent,' algorithms do not function independently of the biases that inform their design and implementation. Artificial intelligence produces predictions about the future based on judgements about the past. The intelligence is only 'artificial' insofar as it is a machine doing the data analysis and calculating the meaning, categorization or judgement, rather than a human. While closely associated with computers and digital technologies, an algorithm is simply a process or set of rules to be followed in calculations or other problem-solving operations (OED, "Algorithm"). Laws are also algorithms, and while non-digital, they are also based on precedent, using existing judgements or rulings to determine how current cases will be decided. Whatever bias is present in 'naturally intelligent' decision making and policy will translate to artificially intelligent decision making and policy. The term artificial refers more to the quantity and speed that a computer program can process data than to any transformation in the logic or structure of the analysis or outcome that an algorithm can generate.

Algorithms are written through their programmer's coding of existing data sets, such as profile pictures, arrest records, geographic locations and credit histories. Algorithms do not generate new meanings, rather they code data to assign pre-determined meanings to new sets of information. Through the assignment of these pre-determined meanings, algorithms produce conclusions about the meaning of the data sets, without any input from the people from whom the data has been made to exist as data. In the criminal justice system, the integration of smart technology and algorithms with 'crime prevention' is known as predictive policing. Many police departments across the United States now use 'risk assessment' software to determine the locations and times of day that require an increased police presence. These areas, known as 'hot spots,' are visualized through digital mapping using different intensities of hot and cold colors to denote greater and lesser areas of 'risk.' The primary data sets used to design these risk assessment algorithms are arrest records. These records are impacted by factors including 'racial bias,' or racism that motivates the over-policing and over-incarceration of racialized communities. Therefore, arrest records will indicate that the risk of

criminal activity increases in Black and Brown neighborhoods, especially poor Black and Brown neighborhoods, and will dispatch police officers in greater numbers to those areas (Data 4 Black Lives; Angwin, Larson, Mattu and Kirchner, 2016). As data sets used to create predictive policing software, arrest records are transformed from archives of racist policing into ‘unbiased information’ used to streamline and sanitize problems including racial profiling. As archives of anti-Blackness, arrest records are made to exist by the state and its police officers who determine that people are breaking the law – an anti-Black world makes human behavior and sociality (Blackness) into criminal activity that is recorded and collected as data.

Predictive policing is frequently cited as an improvement or upgrade to non-algorithmic policing that involves ‘human error’ (Ferguson, 2017). Many counties across the United States use risk assessment software to mitigate deteriorating community relations in the context of the increased visibility of police brutality in the era of social media. One year after Ferguson Police officer Darren Wilson murdered 18 year-old Michael Brown in Ferguson, Missouri, the St. Louis County police department introduced the predictive policing software HunchLab to its operations. HunchLab was implemented in response to the protests following Brown’s murder and the negative optics that these uprisings created for the police department. The HunchLab website describes the software as “next generation predictive policing” (HunchLab). The word generation refers to the ‘upgrade’ made to carceral technology that claims to streamline human experience through the sanitization of ‘human error’ in the context of the criminal justice system. While the word generation refers to the evolution of smart technologies, ‘generation’ also evokes the trans-generational, centuries-long coding of Blackness as criminal in propertied white societies – racializing surveillance and the coding of human life (Blackness) is not a phenomenon that emerged in tandem with digital computing. Rather than address bias and racial profiling in Ferguson, the St. Louis County police department downplayed the crisis as a problem of ‘human error’ (Chammah, 2016). Eliminate human error with HunchLab, and they would eliminate the problem of police

brutality. In a comment on the mechanization of policing in Ferguson, Black studies scholars Fred Moten and Stefano Harney identify Darren Wilson as a “Drone” that was “instrumentalized” to enact genocide in the state’s defense (2017, 19). As the term drone most often refers to an unmanned aerial vehicle capable of remote sense through remote human control, Moten and Harney’s use of the term enacts a counter-reading of the idea of the instrument in relation to anti-Blackness and policing. In a conversation with Robin Kelley, Moten elaborates on this idea:

We need to understand what it actually is that the state is defending itself from and I think that in this respect, the particular instances of Michael Brown’s murder and Eric Garner’s murder are worth paying some attention to because what the drone, Darren Wilson, shot into that day was insurgent Black life walking down the street. I don’t think he meant to violate the individual personhood of Michael Brown, he was shooting at mobile Black sociality walking down the street in a way that he understood implicitly constituted a threat to the order he represents and that he is sworn to protect (cited in Wang 2018, 192).

While both Wilson and Brown appeared in public space, the algorithm of anti-Blackness coded Brown as a ‘body’ or property of the state and therefore public and violable – Wilson’s status as ‘human,’ self-possessing and private or sovereign is made possible through the arrest, capture and destruction of mobile Black sociality. Or as Black studies and STS scholar Ruha Benjamin writes, “vampirically, white vitality feeds on black demise – from the extraction of (re)productive slave labor to build the nation’s wealth to the ongoing erection of prison complexes to resuscitate rural economies – in these ways and many more, white life and black death are inextricable” (41). White vitality, including natality, is an anti-social enterprise that instrumentalizes Black death to propel theories of self-possession and ontogenetic inheritance. In WDSS, privacy is conceived of as a corporeal right that extends outwards from the human body. What privacy extends outwards from risk? As the long present of anti-Black violence and police brutality demonstrates, risk assessment technologies pre-date digital computing. Physical, social and intimate geographies are coded as risky according to racializing algorithms<sup>3</sup> that pre-date digital computing. In a propertied white world,

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<sup>3</sup> A process or set of rules to be followed in calculations or other problem-solving operations (OED, “Algorithm”).

Black life is high risk because it threatens whiteness as vitality. White vitality – defined as self-possession and corporeal privacy from the market – is insured by Black death that fortifies the market. WDSS takes up white vitality as its central organizing principle without naming it as such. Through this principle, technology is thought as discursive matter, and Black death is overlooked as not mattering at all. WDSS studies technology as a tool that has the potential to threaten white privacy, while productively indexing Blackness for destruction to sustain and expand the market.

In the next section, “Code/space,” I discuss how the idea of ‘code’ or digital computing is deployed in WDSS to fight for the fortification of propertied whiteness through privacy. I relate this fight for privacy and the separation of reproductive and productive labor that it entails to a different kind of code/space produced through technologies of e-carceration. Through my examination of technologies of e-carceration, I arrive at the algorithmic racialization of space prior to software and digital computing. I analyze how spaces of home and the market were coded in the Antebellum era according to racist laws defining freedom and capture through Black women’s reproductive labor.

## CODE/SPACE

In their 2011 book *Code/Space: Software and Everyday Life*, WDSS scholars and geographers Rob Kitchin and Martin Dodge introduce the term “code/space” to name physical spaces that are newly networked through computer code. The authors analyze examples of code/space including airports, offices, cafes and homes, whose pre-digital functions are reengineered by smart technology and wireless internet. Kitchin and Dodge give examples of code/spaces of home where parents can now play with their children, cook dinner, check work emails and make purchases all in the same physical space of their home (2011, 174). The intrusion of the market into the home through work emails, texts, Amazon and the internet of things (including coffee makers, thermostats, and motor vehicle GPS systems) provides increased comfort and convenience while simultaneously encroaching on users’ privacy and sense of sanctuary. The authors describe home space prior to code/space as a place for “personal life and privacy from others; a place with layers of memories and meanings from the past; a sanctuary that offers security and safety from the wider world” (159). Through computer programming and software, code/space redraws the boundaries between productive and reproductive labor that characterize the pre-digital distinction between public and private or home life for propertied whites. Where the home and the market were once separate, smart technology allows the market into the domestic sphere.

To demonstrate this conflict between the increased comfort and convenience that smart technology provides and the threat it poses to privacy and sanctuary, the Kitchin and Dodge perform audits of three “typical (Western) homes” (160). In these homes, a variety of objects are embedded with software and are “reconfiguring the social and material relations of home, often in banal and subtle ways” (161). From climate and light control to digital television recording, smart technologies allow elements in each home to function according to the preferences of their users/consumers/inhabitants, while also collecting information about the habits and purchases of their users/consumers/inhabitants. In exchange for the services provided by the technology, the

technology cuts into the users' privacy by sharing their data (produced through the surveillance of their use/consumption) with the technology's designers/manufacturers. Through user data, big tech corporations develop 'identities' for who their users are and shape who they are likely to be in the future. Ironically, Kitchin and Dodge do not give any identity markers for the inhabitants of the three homes in their audit, aside from age, employment and home ownership status. The authors go into great detail to describe the relationship between code and the internet of things (including coffee makers, thermostats, and motor vehicle GPS systems), but they omit any discussion of code/space technologies that mark people (bodies and flesh), including race/gender/sexuality/ability/status/environment. As an afterthought to the consumer objects in each home, Kitchin and Dodge note an RFID tag that is implanted under the skin of one family's dog and "render[s] [her] machine readable" (161) to provide details such as her home address and current location in case she ever gets lost. This is the closest any of the family members come to biopolitical surveillance, or electronic monitoring that is embedded in their physical body. The humans in these "typical (Western) homes" are never "rendered machine readable" (161) through mandated electronic tagging. While Kitchin and Dodge are concerned that user privacy is undermined in code/space, they are not concerned with how code/space compromises users who are used by both state and private institutions to code space as criminal, as in the case of anti-Blackness and predictive policing.

In the authors' conception of code/space, neither codes nor spaces are theorized as producers of racial hierarchies. In my consideration of the relationship between racial hierarchies and code/space through the position of the captive, I examine the coding of people's bodies through software-driven carceral technologies known collectively as e-carceration. E-carceration is gradually replacing analogue technologies of the prison industrial complex including cash bail. Where cash bail is eliminated in states like California and New Jersey, 'risk assessment' software is used instead by prosecutors and judges to determine whether or not a person who has been arrested and is awaiting a trial or plea deal should be released or held in jail. Risk assessment algorithms turns

Black peoples' bodies and other Black intimate geographies into code/space. These patented software products are sold to state institutions by the private corporations that design them. There is no transparency around the data sets that are used to design the algorithms, or the conclusions that the software is programmed to draw when fresh data sets are analyzed (Wang, 2018; Horning, 2012). This collision of privacy, code and space at the level of the human body is part of a larger project of color-blind racism and white supremacy<sup>4</sup> that fuels the shifting prison industrial complex towards e-carceration or "The Newest Jim Crow" (Alexander, 2010; 2018). In addition to risk assessment software that determines the terms of bail, those individuals who have already served time in prison are increasingly released on parole with electronic tags known as ankle monitors.

Ankle monitors are programmed with GPS tracking to share the 'user's' location with police at all times. Through this tracking, the monitor notifies law enforcement if the geographic boundaries of the 'user's' parole are violated. As many people released on parole are under house arrest, ankle monitors create code/spaces of e-carceration where people formerly incarcerated in prisons and jails are now bound to their homes, or to their immediate neighborhoods in certain cases, making it impossible to travel for employment, to visit family or to participate in other types of community. In addition to these movement restrictions, people fitted with electronic tags are required to pay up to 35\$ a day (\$1050 a month) to rent the device (Solon, 2018). For a person released on bail and awaiting trial, this cost creates an additional pressure to accept a plea deal in order to be free from mounting debt (Kilgore, 2018). Alongside the barriers imposed by software, the limitations of hardware including length of charge and battery depletion further restrict the 'user's' movements, as a dead battery will alert the police that the 'user' has lost service, which is considered a parole violation that can result in arrest and return to prison. In addition to hardware/ ankle monitors, private companies are experimenting with software in the form of smartphone apps

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<sup>4</sup> Dylan Rodriguez defines white supremacy as "a logic of social organization that produces regimented, institutionalized, and militarized conceptions of hierarchized 'human difference'" (11).

that interface with “tamper proof” wrist worn monitoring devices networked together through Bluetooth (Gable, 2017). The Arkansas-based company E-Cell makes an app to “unlock the future of house arrest monitoring” through GPS tracking, dynamic remote check-ins and biometric identification called the House Arrest App (House Arrest App). In a promotional video uploaded by E-Cell in 2016, an in-screen video of the House Arrest Dashboard (the interface used by the institution or organization doing the monitoring) shows profile photos of “clients” spread across a map, each with a colored outline to indicate their level of “compliance” with the terms of their arrest (HouseArrestApp.com). House arrest monitoring apps utilize the same technologies found in non-carceral consumer apps such as location sharing and finger print analysis, however the status of the user is uniquely marked as unfree and they have no option to opt-out and halt service.

In contrast to the smart devices analyzed in ‘typical (Western) homes,’ technologies of e-carceration produce ‘home’ as a code/space of racializing surveillance in the afterlife of slavery. Saidiya Hartman, Professor of African American literature and Women’s and Gender Studies at Columbia University, introduces the afterlife of slavery in her 2006 book *Lose Your Mother: A Journey Along the Transatlantic Slave Route*:

“If slavery persists as an issue in the political life of black America, it is not because of an antiquarian obsession with bygone days or the burden of a too-long memory, but because black lives are still imperiled and devalued by a racial calculus and a political arithmetic that were entrenched centuries ago. This is the afterlife of slavery--skewed life chances, limited access to health and education, premature death, incarceration, and impoverishment” (2007, 6).

In the afterlife of slavery, both state and private actors have introduced software to calculate the “skewed life chances, limited access to health and education, premature death, incarceration, and impoverishment” that persist for Black people in America. In the afterlife of slavery, privacy is not given, nor is it taken, rather it is captured through anti-Black racism and violence. Recall that Kitchin and Dodge describe home as a space that provides “personal life and privacy from others; a place with layers of memories and meanings from the past; a sanctuary that offers security and safety

from the wider world” (159). They theorize code/space as untouched by racial hierarchies, when in fact racial hierarchies produce the conception of code/space as non-racial. To expand on how racial hierarchies produces code/space, as non-racial, I turn to the algorithmic racialization of space prior to software and digital computing to analyze how spaces of home and the market were coded in the Antebellum era according to racist laws defining freedom and capture through Black women’s reproductive labor.

As Hartman writes, “the line of division between the market and the household which distinguished the public and the domestic and divided productive and reproductive labor for propertied whites does not hold when describing the enslaved and the carceral landscape of plantation” (2016, 168). Propertied whites maintained the distinction between private and public space through the unfreedom of enslaved people of African descent and whose labors, both productive and reproductive, were captured to drive the market. In the context of the antebellum era and racial slavery, code/space might have referred to the reproductive systems of enslaved women of African descent. The law that the free or slave status of the child followed the status of the mother – *partus sequitur ventrem* – maintained racial hierarchies and the plantation economy by coding the children of enslaved women of African descent. According to the white settler colonial state, enslaved people of African descent were born into debt by virtue of being coded as property. Under certain agreements with propertied white slave-owning individuals, they could buy their freedom, thus paying off their debt, in order to be recognized by the state as free. In this sense, according to the state, enslaved people of African descent were born into the market as property, and thus had no privacy from the market that was underwritten by their capture.

Jennifer Morgan, Professor of History in the department of Social and Cultural Analysis at New York University, analyzes the relationship between slavery, reproductive labor, the market, property and privacy in the British colonies that would later become the independent United States:

Freedom from the market—obviously an aspirational freedom for myriad unfree white laborers—would ultimately become a defining mark of the intimate geography of public and private space; but it was only conferred on those deemed to have a legitimate claim. For women of African descent, both enslaved and free, the looming danger of the market would immediately encroach on their pregnancies and the births of their infants. The reach of the market breached their corporeal boundaries in ways neither subtle nor incremental. And thus exposure to the market became as intimate as the feelings of affection and as interior as a quickening pregnancy (13).

in the settler colonies, women of African descent experienced the market at the level of biopolitical surveillance. Their flesh was coded as public insofar as the market captured their most intimate experiences through racial slavery. This saturation of the market with human flesh upturns Kitchin and Dodge's conception of private and public space that gives rise to code/space in the digital age. While Antebellum laws no longer code people and space, the plantation economy they guaranteed is present in what Geographer and Black Studies scholar Katherine McKittrick calls "plantation futures." In the last section, "The Mobilization of White Privacy," I follow the time-space named by plantation futures to switch gears and relate digital computing and white privacy to an older technology, analogue photography, that created and secured code/space and generated criminal databases long before the advent of digital computer code and algorithms.

## THE MOBILIZATION OF WHITE PRIVACY

McKittrick defines “plantation futures” as “a conceptualization of time-space that tracks the plantation toward the prison and the impoverished and destroyed city sectors and, consequently, brings into sharp focus the ways the plantation is an ongoing locus of anti-black violence and death” (McKittrick, 2013, 2-3). McKittrick cites George L. Beckford’s “plantation economy thesis” where Beckford analyzes how the transatlantic slave trade “instituted a racialized economy that lingered long after emancipation and independence movements in the Americas; and that the protracted colonial logic of the plantation came to define many aspects of postslave life” (cited in McKittrick, 2013, 3). In this section I examine an analogue technology – mobile analogue photography – that emerged as a colonial logic of capture after the period of Reconstruction in America, and that became widely used during Jim Crow. Through mobile analogue photography, the colonial logic of the plantation came to define legal frameworks related to privacy through notions of ‘corporeal’ and ‘incorporeal’ rights.

After the Civil War and Reconstruction, propertied white society re-defined private and public space through the rise of mobile media technologies including analogue photography. Where propertied whites used analogue photography to code whiteness with individual identity, citizenship and a right to the self, they also used it to code Blackness as criminal and hyper-sexual through surveillance in the form of police records, social scientific studies and popular culture. In the hands of propertied whites, analogue photography reinforced the inherent violability and publicness of Blackness. At the same time, the making-mobile of analogue photography in the late 19th century introduced problems for propertied whites who were used to sensing themselves as rights-bearing and self-possessing subjects. As changes in technology allowed photographers to move out of the studio and into the street, professional photographers captured pictures of propertied whites without their consent. In fact, the idea of having to consent to having one’s photograph taken did not yet exist until mobile analogue photography and “The Right to Privacy” began to circulate.

In 1890, attorneys Samuel Warren and Louis Brandeis published “The Right to Privacy” in the *Harvard Law Review*. The article was written in response to the mobilization of analogue photography and its encroachments into the public sphere. Warren and Brandeis argued for the regulation of representation and the right to privacy from media and recording in public space for propertied whites. Their arguments unfolded from the declaration that “the term ‘property’ has grown to comprise every form of possession – tangible as well as intangible” (193). Through changing technologies, propertied whites were dispossessed of their intangible properties – their ability to self-represent and their entitlement or ownership over such self-representations. In response to this dispossession, Warren and Brandeis sought to “protect the privacy of the individual from invasion either by the too enterprising press, the photographer, or the possessor of any other modern device for recording or reproducing scenes or sounds” (206). It may seem hard to imagine a time when photography was a specialized enterprise, rather than a function embedded in every smartphone, but in the late 19th century there were no laws to govern the use of photography in relation to consent and privacy.

Warren and Brandeis argue that recording technologies interrupt the sanctity of private life through their prediction that “what is whispered in the closet halls shall be proclaimed from the house-tops” (195). They advocated for changes in the legal conception of property, arguing that from “corporeal property” – possession or ownership of one’s body – rises “incorporeal property” – possessions arising from corporeal property, such as whispers, thoughts, feelings, and expressions – effectively broadening the legal boundaries of whiteness to include those biosocial phenomena that can be recorded through representational media technologies (193). In sum, “The Right to Privacy” argued that “the individual is entitled to decide whether that which is his shall be given to the public” (199). Through the right to privacy, boundaries of individual white privacy extended into the public sphere in the terms of the “incorporeal property” of any self-possessing individual. Analogue photography reengineered the boundaries between private and public space to create

further immunities and protections for white people at the expense of Black life, in much the same way that computer code transforms the boundaries between private and public space today.

Analogue photography may seem distant from artificial intelligence and computer code, but as an emerging mobile technology in the 19th century, it introduced portable and ‘artificial,’ or mediated, perception that replicated ‘natural’ vision. Outside of the calls for incorporeal property for propertied whites, this re-definition, in tandem with emancipation and Jim Crow, lead to the use of photography to capture Blackness as a permanent condition of dispossession. Anti-Black terror was captured in consumer photographic prints and postcards, while Black urban life was criminalized and studied by sociologists and police who used photography to code blackness as wayward and destitute (Hartman, 2019). Written in 1890, twenty-five years after the Black Codes and over ten years into the Jim Crow era, “The Right to Privacy” was published alongside lynch laws and vagrancy laws that enacted violence and capture in efforts to determine where, when and how newly free Black people could live. These racist laws were written at the same time that convict photography was introduced as a technology to build criminal databases in newly formed police departments in US cities such as Chicago and New York City (Pareneti, 2003). “The Right to Privacy” is an important document in WDSS because it grounds contemporary digital technologies (and thus the study of study of data and surveillance absent of anti-Blackness) in a history of racist divisions between the right to privacy and self-possession, and exposure to the market through the dispossession on the body as object of property. Mobile analogue photography introduced a crisis of privacy for propertied whites that resulted in whiteness being re-defined and expanded to include the self-fashioning of ‘incorporeal property.’ At the same time, and with the same technology, propertied whites represented Blackness as wayward, uncivilized, and criminal. Photography became a new means to continue to code physical, social and intimate spaces as anti-Black, with certain white aesthetic markers indicating an overflow of publicness, or lack of privacy, in Black neighborhoods and communities to signal Black criminality as a threat to propertied white sociality.

Through photography outside the bounds of the studio, scientists, social scientists, cultural producers and police all made data exist from the 'incorporeal properties' of Black people, whose expressions, thoughts and feelings were captured as objects of property through various analogue algorithmic calculations in the afterlife of slavery. In these databases of the white gaze turned to Black life and death, the mass of propertied whites saw poverty, criminality, destitution, lasciviousness, and animality. What these databases capture is white privacy projected as risk and debt upon the dispossessed, so that whiteness may retain its absolute incorporeal value.

## CONCLUSION

In this paper I have analyzed white conceptions of data and surveillance to demonstrate how privacy persists in WDSS as a means to resist the intrusion of the market into the private lives of propertied whites, at the expense of Black life and its enduring capture and exposure to the market in and as death. At the beginning of my argument I resolved that the binary of give and take that defines data in WDSS would be better understood as captivity and its refusal. I analyzed technologies of e-carceration in relation to the theory of code/space to show how white conceptions of privacy erase the reality of biopolitical tracking and surveillance of racialized individuals and communities. I pointed to an example from scholars Rob Kitchin and Martin Dodge of a “typical (Western)” family dog outfitted with an RFID remote tracking device as the sole instance in the theory of code/space where biopolitical surveillance is mentioned as a form of code/space, coding the space of the body or flesh for capture. Then I demonstrated that code/space, when considered in relation to e-carceration, must be read a theory that upholds the destruction of insurgent Black sociality, as it describes changes to technology and environment that erase the violent apprehension of corporeality in Black communities. I chose to follow my discussion of code/space and e-carceration with a reading of “The Right to Privacy” and analogue photography to demonstrate that digital technology does not break with previous regimes of white privacy from the market. Through my analysis of privacy in the 19th century in relation to mediation and perception, I connected the extension of white rights in the face of new technology to plantation futures where white privacy is maintained and upheld through ever changing technologies of anti-Blackness. In my reading of capture across different technologies, I placed WDSS and its preoccupations in the afterlife of slavery as an anti-Black discourse underwritten by capture. In WDSS, self-possession is an assumed right of the subject that is never questioned, and the racializing effects of code remain unseen, despite WDSS’ alleged focus on making the unseen of

data and surveillance visible. Through my case study of WDSS and computer code, I bring the refusal of white privacy to bear on studies of data, surveillance and abolition.

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