International Journal of Law in Context (2020), **16**, 422–442
doi:10.1017/S1744552320000427

ARTICLE

Transcarceral lawscapes enacted in moments of Aboriginalisation: a case-study of an Indigenous woman released on urban parole

Joshua David Michael Shaw*

Osgoode Hall Law School, York University, Toronto, Ontario, M3J 1P3, Canada
*Corresponding author. E-mail: JoshuaShaw@osgoode.yorku.ca

Abstract
The field of carceral geography was lately developed by critical human geographers grappling with the spatiotemporal modes of social control and coercion particular to institutions of incarceration (Moran *et al.*, 2018; Moran and Schliehe, 2017). This has included – in keeping with Michel Foucault's (1991) genealogy of the carceral as an art of disciplinary power – studying the disparate ways in which carceral techniques proliferate from and beyond the built site of the prison, becoming incorporated into other spatial formations. Carceral geographers have characterised this extension as transcarceral (Moran, 2014) or heterotopic (Gill *et al.*, 2018; Moran and Keinänen, 2012). However, despite frequent references to law and legal institutions, carceral geographers generally do not theorise about law. Through a case-study involving an Indigenous woman paroled in Toronto, the author theorises about how carceral spaces are expressed through legal forms and techniques, affecting how paroled individuals, particularly those *Aboriginalised*, are emplaced within urban space.

Keywords: prison law; carceral geography; urban parole; legal geography; Toronto; transcarceral spaces

1 Introduction

Carceral modes of social control and coercion, such as the discipline, surveillance and confinement of inmates (Moran *et al.*, 2018), increasingly extend outside the built walls of the prison as punitive modes of public administration and policing follow individuals long after they have crossed the threshold back into society (Allspach, 2010; Moran, 2014). Carceral geographers, criminologists and other social researchers have conceptualised this extension as transcarceral (Allspach, 2010; Carlton and Segrave, 2016; Moran, 2014) or heterotopic in dimension (Baer and Ravneberg, 2008; Moran and Keinänen, 2012), having no reliable boundary demarking an inside or outside to prison space. Such a rendering treats the carceral as an assemblage of heterogenous spaces and flows between spaces, folding into and coming apart from each other for the purposes of social control and coercion, which are organised around, yet not coterminous with, prison walls (Gill *et al.*, 2018; Moran, 2014; Turner, 2016).

The place (or places) of law in transcarceral spaces – which is both a question of where law can be found and what is law (Philippopoulos-Mihalopoulos, 2016a) – has been undertheorised, despite law's omnipresence in the historical emergence and ongoing operation of carceral institutions (e.g. penal codes or common-law offences, sentencing laws and release mechanisms), including forms not obviously related to prisons (e.g. the provision of public entitlements, laws applicable to family or civil relationships). Some social researchers interested in these themes or concepts, such as Sally Engle Merry (2001), have considered certain legal mechanisms as part of the urban spatial polity that excludes and confines individuals in institutions of incarceration. In these treatments, legal provisions or schemes are architectural facets that help to establish the complementarity between urban and carceral space;

however, what law is doing in these cases is not thoroughly examined, collapsing legal phenomena into other social forms and relegating law to the background of discussion. Such a lacuna leaves room for a project of legal theory to examine conceptually the forms and techniques that law takes in succouring transcarceral space.

Through a case-study of an Indigenous woman, Jane Doe,[1] paroled in Toronto, I attempt to address this lacuna in social thought by meditating specifically on how law contributes to such phenomena. Since Doe's Indigeneity factors significantly in legal representations of her – and since the transcarceral, like urban space and law, are generally implicated in projects of racialisation and colonisation – I also hope that this case-study attends to some modes by which law contributes to the incarceration of Indigenous peoples. Such theorisation should interest social researchers outside of the geographic and institutional contexts of Toronto, in that law's contribution to transcarcerality in this case-study may be encountered in other urban environments and with other Indigenous peoples. I also hope it will potentiate further dialogue between legal theory and the emerging field of carceral geography.

To conceptualise the relation between law and carceral space, my theorisations from this case-study build upon prior work of legal geography and theory, especially the 'more-than-human' (Whatmore, 2002) work of Andreas Philippopoulos-Mihalopoulos (2013; 2015) – more-than-human in the sense of also accounting for the affective capacity of non-human bodies, objects and environments in social life (see e.g. Alaimo, 2010; Barad, 2007; Grear, 2017; Whatmore, 2002). In particular, I rely on Philippopoulos-Mihalopoulos's (2013; 2015) concept of lawscape, having regard to its usefulness in describing the relations between a plurality of bodies, objects and environments, and how these are affected by, indeed engineered through, law. I believe that more-than-human forms of legal geography and theory can be brought into productive conversation with carceral geography, given that the former often attends to the *materiality of* law and legal phenomena and the latter – perhaps also influenced by the more-than-human geographies of Sarah Whatmore (2002) and Doreen Massey (2006), among others – often attends to the *materiality of* punishment, coercion and control (see e.g. Moran, 2012; 2014; Turner and Moran, 2019). I also attempt to bring these more-than-human concepts into conversation with feminist and Indigenous legal geographers and theorists who have made important interventions on law and urban space.

The paper will take the following form: first, a brief summary of the legal geographies and theories I draw upon; second, the context of research and methodological approach; third, a procedural account of the events that comprise the case-study; fourth, the findings in situations of (1) parole, (2) the Parole Board's review of the warrants and appeal to the Appeal Division of the Parole Board and (3) the Federal Court's judicial review and corresponding discussion for each situation; fifth, a general discussion in which I reflect on the three situations together to theorise and conceptualise how legal forms or techniques relate to transcarcerality, with an emphasis on incarceration of Indigenous peoples; and, sixth, the conclusion.

2 Legal geographies and theories

There are intimate relations between law and space, both in how a social space differentially affects the emergence or application of a law and how representations of space inhere in and are produced from legal phenomena (Blomley and Bakan, 1992; Blomley, 1994; Delaney, 2003). Chris Butler (2012), for example, has attempted to excavate a latent theory of law from Henri Lefebvre's oeuvre, arguing that

[1]I refer to the person who is the subject of this case-study with an alias, Jane Doe. In common-law legal traditions, Jane Doe or other variants (e.g. John Doe) are sometimes used by lawyers and jurists to conceal a person's identity. The court file that I rely upon for my empirical work is publicly available and the Federal Court decision is published in law reports (e.g. 2016 FC 537) and can freely be accessed online through CanLII.org, but I refer to the person as Jane Doe to limit the extent to which her name proliferates because of this research whilst allowing lessons to be drawn from the case. The use of an alias does not provide anonymity in the sense that she cannot be identified – the reader may be able to identify her based upon their prior knowledge of the case or in combination with additional information – but I believe this partial measure is appropriate in the circumstances.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

law can be understood through the spaces that law helps to create. This includes law's capacity for 'fragmentation, homogenisation and hierarchical ordering' (Butler, 2012, p. 84) of space, owing to its operation as a concrete abstraction. By concrete abstraction, Butler (like Lefebvre) draws from Karl Marx (1973), for whom concrete abstractions were always tethered to and actively made the material world as they were the ideas and notions that became 'true in practice' (Marx, 1973, p. 103; also see Butler, 2012, p. 78); ideas and notions entangle with matter through doing and becoming (Barad, 2007). Concrete abstractions permeate the living body, mediating the body's relations to space, producing harmony between the 'spatial architectonics' that make up that body and the space that the body inhabits (Butler, 2012; Lefebvre, 1991).

Butler argues that the abstracting and productive capacity of law tends to affect the spatial architectonics that comprise the body by alienating senses other than vision: abstract spaces created by law are defined by visual illusions that, taken together, act 'reductively to categorise people and spaces for the purposes of management, control and ordering' (Butler, 2012, p. 73). For example, the prioritisation of the visual in law may, directly or by implication, disassemble the human body into parts, spotlight a part and metonymise it to become representative of the whole of the abstract legal subject and then assign the legal subject a relative position in space, whilst obscuring its effects (Butler, 2012, p. 79). Similar consequences follow for the fragmentation, homogenisation and hierarchisation of space, phenomenologically tethered to bodies. However, the visual illusions of contemporary law should not be understood 'one-sided[ly]', with law merely extirpating a more concrete reality to impose a totalising and pure abstraction on an original world (Butler, 2012, p. 79). Butler (2012, p. 79) argues that, as a concrete abstraction produced dialectically in the practised, conceived and lived spaces inhabited by our bodies, law can be understood as 'a coalescence of a set of techniques for spatio-temporal organisation, an ensemble of everyday spatial practices and the influence of insurgent challenges posed by the political imaginary'. Law is 'inscribed within social relations and is materialised in the practice of living bodies', producing concrete realities instead of merely replacing them (Butler, 2012, p. 79). Or, to put this differently, law's concrete abstractions intra-acting with space through the body can be conceptualised as '*cutting* and *joining* socio-legal relations' in time and space, producing new spatiotemporalities (Sylvestre *et al*., 2019, p. 32, emphases in original).

The material and immaterial features of law that produce these concrete realities have lately been conceptualised by David Delaney (2010), Sarah Keenan (2019), Andreas Philippopoulos-Mihalopoulos (2015) (discussed below) and Mariana Valverde (2014), among others. For example, Delaney's (2010) neologism, 'nomosphere', is deployed to conceptualise how the spatial practices, representations and representational spaces that comprise law's concrete abstractions are involved in world-making ('*nomos*' referring to the production of social order) with distinct spatiotemporal forms ('sphere' indicating the dimensional character of the resulting nomos). As nomosphere, law goes beyond *logos*, in which a legally striated space signifies the 'dos and don'ts' (Lefebvre, 1991, p. 142) of society – although that certainly forms part of the nomosphere. A certain zone might be proscribed at a particular time of day for a particular set of behaviours, affecting how an individual orients in and uses that space (also see Sylvestre *et al*., 2019, pp. 12–13). Other spaces may be prescriptive, necessitating, through legal concepts of duty or lawful behaviour, certain performances. But this striation only forms part of the story (Delaney, 2010). Law is also a cohering or flux of disparate bodies in space, stitched together dialectically in abstract imaginaries and material practices, that help us to make sense of social space in our phenomenological experience of it (Delaney, 2010). Indeed, Valverde (2014) argues that law cannot be understood apart from by its spatial and temporal production of space and multiscalar and interlegal meanings and forms of governance that – like a lattice of lenses or prisms – converge on, refract and transform the subject. Keenan (2019, p. 78) also describes how the legal subject '*belongs to, combines with* and *includes* time and space' (emphases in original) – owing to their networked, articulated expressions (also see Massey, 2004; 2006) – allowing the subject to 'tak[e] space with [them]' (Keenan, 2019, p. 78), transforming the landscape so that, for example, a migrant experiences a border 'in every street' (Keenan, 2019, p. 85) or when trying to rent a flat (also see Bennett, 2018).

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Specific to Indigenous peoples, the flux of law, bodies and space enables what Keenan (2009, p. 183) describes as the 'encod[ing]' of law in 'material landscapes', which then 'perform' or give effect to the violence of settler-colonial states. In other words, law and legal phenomena are sedimented in land, built into infrastructure, welded into technologies, entangling matter and meaning (Barad, 2007; Grear, 2017), so that land, infrastructure and technologies are encountered as materialisations of – 'actual [lived] repetitions of' – colonialism's 'original violence' (Keenan, 2009, p. 183). As Keenan (2009, p. 193) reminds us, for Indigenous peoples in the ostensibly post-colonial Australia, legal space continues to be imbedded in the landscape, becoming, in the everyday, the 'dispossession [of Indigenous peoples] from their land and their culture, and where white patriarchal institutions such as the Queensland police force are legitimated because without them the landscape could not be maintained'.

For example, Keenan (2010; 2017) identifies this flux in regimes of settler land title that extirpate Indigenous peoples' connections to land and racialise relations constitutive of property; Shaunnagh Dorsett (2007) identifies this flux through maps and cartography that produce a settler-jurisdiction coterminous with the territory of Australia, authorising acts of expropriation, accumulation and death-work; and Olivia Barr (2016), insisting upon the connection of movement's materiality to the production of the common law, has argued that institutions of burial, mourning, etc. among Britons and Australians (and Canada; see e.g. Shaw 2020a) underlie a spacing of settler colonialism, remaking a territory governable according to its lawful relations. In Canada, Sherene Razack (2002), Julie Tomiak (2017) and Dorries *et al.* (2019), among others, identify this flux in the making of 'Indian' reserves that historically materialised, and continue to materialise, in the displacement, enclosure, policing and immiseration of Indigenous peoples away from urban spaces. This has involved the legal construction of 'Indian'-ness – including liminal categories of 'half-breed' – expressed spatially through the reserve system itself, and through criminal law and local ordinances that reinforced and reinforce the place of Indigenous peoples in relation to settler cities (Razack, 2002; Mawani, 2002; 2010).

Shiri Pasternak (2014; Pasternak *et al.*, 2013) analyses colonial legal geographies through the concept of jurisdiction. Relying on Shaunnagh Dorsett and Shaun McVeigh (2007; 2012), Pasternak sees jurisdiction as the provisional product of legal techniques, or *techne*, 'institut[ing] a relation to life, place, and event through processes of codification or marking' (Pasternak, 2014, p. 151, quoting from Dorsett and McVeigh, 2007; also see Cowan and Wincott, 2016). Pasternak, along with Sue Collis and Tia Dafnos (2013), also relies upon Marianne Valverde, who argues that 'definitions of jurisdiction usually refer to divides of territory and authority, although 'jurisdiction also differentiates and organises the "what" of governance – and more importantly because of its relative invisibility, the "how" of governance' (Pasternak *et al.*, 2013, p. 66, quoting from Valverde, 2009). Valverde (2009; 2014), like Pasternak (2014) and others (Pasternak *et al.*, 2013), makes it clear that jurisdiction is a concrete abstraction, extended and practised through bodies, that produces spatiotemporalities of legal governance by authorising certain ways of inhabiting, doing or becoming in the world. But, specific to Canada's relations with Indigenous peoples, Pasternak (2014) argues that contemporary enactments of jurisdiction, despite existing through particularised struggles (such as land-claim policies, Pasternak *et al.*, 2013), produce 'abstract order' (Pasternak, 2014, p. 154) in space that allows settlers to mythologise and obscure their legalised violence.

Similarly, Keenan (2009), drawing from Doreen Massey (2004), has argued that law and space come together to form geographies of irresponsibility, so that features of the landscape, infrastructure, etc. reinforce the exclusion and policing of Indigenous peoples and settlers' absolution for past and ongoing violence. In this jurisdictional morass, the succouring of colonial projects through criminal law and regulation, and the policing and penitentiary apparatus, become dissimulated from view and naturalised. In these ways, the flux of law, bodies and space, generally, and with settler-colonial law in particular, does not merely divide, displace and categorise; spatio-legal projects emend reality through myriad frames, scales and junctures.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

2.1 More-than-human law and theory

Implicit – yet important – in the above presentation of legal geographies and theories is not only that law and legal phenomena exhibit a politics of space, but also that this politics is intricately entangled with matter that makes up law, bodies and space (Barr, 2019; Grear, 2017; Keenan, 2019). In other words, borrowing from Karen Barad (2007), meaning and matter are enacted and spaced through moving and 'intra-act[ing]' (Barad, 2007, p. 139) bodies, always acting upon each other, so that supposedly natural and social phenomena are inseparable even when one attempts to focus on one or the other. Sarah Whatmore (2002) has relatedly described these 'hybrid geographies' of physical and social space as 'more-than-human', acknowledging that non-human phenomena – themselves never complete and closed entities – act upon each other in the production of heterogeneous, always-provisional space. Elizabeth Povinelli (2016, p. 141) relatedly understands life and non-life (like a river, rock, etc.) as entangled 'existents', acting on and transforming one another in 'the culmination of all the little waves'. Andreas Philippopoulos-Mihalopoulos (2015) applies this more-than-human thinking to law, conceptualising law as a particular conduction of the flux and flow of meaning and matter: law intra-acts within an open ecology of affective forces between bodies moving and encountering each other.

The lawscape – as Philippopoulos-Mihalopoulos (2007; 2015) refers to this open ecology entangled with legal phenomena – is made up affective forces, bringing matter together, separating matter and drumming the rhythms to which matter moves. The concrete abstractions of law are thereby involved in conducting this cacophony of affective forces, without needing a discrete, cognising human body to inhabit that immediate space to produce such effects (see e.g. Shaw, 2020a). Affective forces may also pre-exist the presence of a human body, only to be encountered by humans and involved in the social production of space and spaces of law at a later point. Not all of space must be experienced phenomenologically to be meaningful, nor must all of social space be the product of humans to be meaningful; however, both can affect the atmospheric organisation of these affective flows.

With this more-than-human approach, the concrete abstractions of law are still considered productive of social space (Pavoni, 2017), but these abstractions are depthless. Edward Mussawir (2017), for example, conceptualises law as a thin, topological layer that merely affects the direction, trajectory and cadence of affective forces that make up lawful actions in a social space. Law is otherwise an inert substance that does not exist apart from the affective relations that comprise social space; yet, law distinctly affects their organisation, producing the striating effects of *logos* and world-making capacities of *nomos* that allow us to live with law. Law thereby comprises concrete abstractions that permeate the affective forces constitutive of social space, inscribing their preferred orderings onto these forces (Mussawir, 2017; Shaw, 2020b). A procedural space results from such abstractions that restructures material space according to the productive capacities of legal procedure – striating, commingling, flattening, expanding, reverting, punctuating, accelerating, arresting, elevating, displacing, etc. through the expressive medium of procedure – shaping lawful ways for bodies to move through space (Mussawir, 2011; 2017; also see Barr, 2016; Brighenti, 2010). Philippopoulos-Mihalopoulos (2013; 2015; 2016b) takes this thesis further, stating that, whilst law's concrete abstractions are a thin, fleshy layer atop the affective forces of space, all of social life must be understood immanently through law (see e.g. Philippopoulos-Mihalopoulos, 2010). One cannot observe the social outside of law, even if the expression of law is often dissimulated. Law is atmospheric in quality – a lawscape that stretches across and affects the unfolding of all matter. Such a more-than-human rendering prioritises *encounters between* bodies – human and non-human, within the given spatial and temporal affordances of a territory – as the productive site of the concrete abstractions of law, which pre-exist individuation within phenomenological experience (Mommersteeg, 2014).

I prefer this more-than-human rendering of law and legal phenomena – particularly the concept of lawscape – as it will be helpful to me in conceptualising my observations in the case-study of Jane Doe. First, like carceral geographers tracing the materiality of punishment, coercion and control, I want to attend to the materiality of legal phenomena to encounter modes by which transcarcerality is produced

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

through intra-actions between legal meaning and matter. Second, as should become clear, this approach is sensitive to how carceral zones are grafted onto land, assembling territory through the everyday enactment of legal orders (see e.g. Sylvestre *et al*., 2019), but it also allows me to avoid prioritising the zonal boundaries 'themselves [as] objects' (Brighenti, 2010, p. 223), recognising that boundaries are also important in terms of what they *do* – to sense the city as heterogenous, atmospheric fluxes and flows that exceed, and yet are produced from, the thickening of law between its borders, striations or folds in space (Brighenti, 2010). In other words, this will allow me to conceptualise the place of law in transcarceral spatiotemporalities not merely as overlapping zones delineating spaces of legality and illegality in which one can or cannot exist, but also as technicolour movement across and through the thresholds of such boundaries by which the relations of law, bodies and space compose, decompose and recompose. Attention to movement and transformation underlies my observation of spatio-legal processes that refuse to sit neatly, or directly, in relation to legal borders; it primes my sensation of how law, bodies and space matter to the ongoing formation of cities in ways that would otherwise be obscured.

3 Research context and methodology

Jane Doe's case was examined using a case-study method (Schwandt and Gates, 2018). In socio-legal research, a case-study allows the social researcher to qualitatively study several legal phenomena as they relate to each another in a real-world, social context (Miller, 2015). Case-studies are rich in information that resists immediate systematisation and calls for probing analysis in the construction and evaluation of theory, concepts and, potentially, causal mechanisms. As Lisa Miller (2015, p. 384) notes: '[c]ase studies can identify and draw together pieces of evidence that may not seem related at the macro level but, when decomposed under intensive scrutiny, add considerably to descriptions of a given legal phenomena.' Case-studies are also goal-oriented tools for social research, drawn to troubling the extant and mediating new understandings (Miller, 2015) in accordance with the social researcher's chosen and received methodologies. In my case, I relied on the case-study method to assist in my data collection, analysis and theorising about law's relation to the carceral, whilst following a Deleuzoguattarian methodology (e.g. Fox and Alldred, 2015; Grear, 2017). Such a methodology understands that more-than-human forms – including data and the theories upon which I rely – have agency and participate in the messy production of social facts under observation (Brinkmann, 2017; also see Barad, 2007).

I read and coded the court material iteratively, returning to the material after coming across new bodies of theory or discussion with colleagues. Coding was 'a technique that [could] spark wonder and creativity in [me as] the analyst' (Brinkmann, 2017, p. 118), approached not as a way of closing off data in turgid representations to be extracted and objectified, but instead as portals to pass through, pass back and re-enter as I wrestled with understanding the phenomena in the court file. In other words, whilst reading and coding the court materials, I sought 'situations of breakdown, surprise, bewilderment or wonder' (Brinkmann, 2014, p. 722), where my prior understanding was shattered and had to be reassembled to right my relation to the world. This reassembly of understanding was done provisionally by generating a plausible account that explained the phenomena under study, and testing the felicity of that account through repeated, subsequent encounters with the same or closely related phenomena (Brinkmann, 2014).

These iterative steps forced my perspective, attending to the spatial and temporal dimensions of the legal forms and techniques described in these texts, which contributed to new syntheses of comprehension (Brinkmann, 2014; Lambert, 2019), which I could then reflect on immanently through legal theory. In other words, the case-study method allowed me to observe the relations between bodies, objects and environments (e.g. the inmate, parole officers, the Parole Board and the court, structures, texts, schedules, physiologies, psychologies and imagined spaces) that came together and co-constituted what mattered as law in situations under study: the materiality of legal phenomena that affected social life (Kang and Kendall, 2019; Philippopoulos-Mihalopoulos, 2013; 2016b; Pottage, 2012).

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

4 Procedural account of Jane Doe's case

Jane Doe was from the Ermineskin Cree Nation, located near the settler city of Edmonton, Alberta. She described herself in an affidavit to the Federal Court as 'a penitentiary prisoner serving a life sentence which commenced [in] 1979' (Doe, 2015, p. 2). The index offence for which Doe was convicted and sentenced was second-degree murder, the events of which were said to have occurred in Edmonton whilst she was having drinks at a man's apartment with two other women (Toronto Women's Supervision Unit, 2014a). Under Canada's Criminal Code (1985 (RSC 1985 c C-46 (Canada)), s. 231), second-degree murder is distinguished from first-degree murder in that the former does not require a plan to kill. The court file indicates that 'an argument erupted that ended with the three women [including Doe] beating and stabbing the male victim to death' (Toronto Women's Supervision Unit, 2014a, p. 1). She was first incarcerated in Edmonton and, after two years, was transferred to federal penitentiaries in the province of Ontario. Doe maintained her innocence throughout her sentence, stating she was wrongly convicted (Toronto Women's Supervision Unit, 2014b), and has spoken publicly to that effect since her release, attributing her conviction to systemic racism in the judicial system (CBC, 2018).

With relevance to this case-study, Doe was transferred from a federal penitentiary in Kitchener, Ontario to a community residential facility in Toronto to facilitate 'Urban Section 84' day parole (*[Doe] v. Canada (Attorney General)*, 2016 FC 537 (Canada), para. 4). 'Urban Section 84' day parole is a form of release permitted under section 84 of Canada's Corrections and Conditional Release Act (1992 (SC 1992 c 20 (Canada)) for Indigenous inmates who express 'interest in being released into an Indigenous community'. Such parole involves Corrections Services Canada providing notice to the relevant community's Indigenous governing body and 'an opportunity to propose a plan for the inmate's release and integration into that community' (Corrections and Conditional Release Act, 1992, s. 84). *Doe* was transferred to a community residential facility operated by Elizabeth Fry Toronto and was released on parole under the supervision of parole officers of the Toronto Women's Supervision Unit on 13 December 2013.

Starting in May 2014, Doe began to have difficulties with parole officers, resulting in updates to her correctional plans, including the addition of a new condition (e.g. financial disclosure) and, at the end of her parole in September 2014, the development of a regimented schedule (Parole Board of Canada, 2014, pp. 2–3). That last correctional plan was generated after Doe showed up at the community residential facility after her curfew in August. Prior to her return to the facility, during her apparent truancy, the Parole Board issued a warrant suspending her parole and authorising her apprehension by police. That suspension was cancelled by the Parole Board, with the 'requirement to attend a Native Relapse Prevention program and an agreement that [Doe] would complete a detailed and structured itinerary with [her parole officer] on a weekly basis' (Parole Board of Canada, 2014, p. 3). The detailed and structured itinerary, included in Doe's correctional plan, dictated the places she could go at specific times of the day and the people she could associate with, restricting her to participating in Alcoholics Anonymous meetings, Indigenous services and some, but not all, social activities within the community residential facility. The constraints imposed under parole enclosed Doe's social practices within a diminishing area. After ten months, in September, Doe was apprehended for breach of her parole conditions – specifically, failing to report her relationship with her friend 'Ashley' to her parole officer and by having contact with Ashley – and a warrant was issued by the Parole Board that suspended her parole and recommitted her to continuous custody (Corrections and Conditional Release Act, 1992, s. 135). Upon review of the warrants of suspension, the Parole Board revoked the parole, resulting in her transfer back into a federal penitentiary (Corrections and Conditional Release Act, 1992, s. 135(5)). Doe appealed that decision to the Appeal Division of the Parole Board, as permitted under section 147(1) of the Corrections and Conditional Release Act (1992), which affirmed the Parole Board's decision to revoke parole.

Doe sought judicial review of the Parole Board's and Appeal Division's decisions from the Federal Court of Canada, as permitted under section 18.1 of Canada's Federal Courts Act (1985 (RSC 1985 c

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

F7 (Canada))), which allows an individual affected by a decision of a government entity to seek certain forms of relief. First, in her application to the court, Doe submitted that she had included in her submissions to both boards her personal experience in residential schools and arguments as to their statutory (Corrections and Conditional Release Act, 1992, s. 79.1(1)) and common-law (*R. v. Gladue* [1999] 1 S.C.R. 688 (SCC) (Canada)) duties to consider these circumstances towards 'the systemic goal of reducing rates of incarceration for Aboriginal offenders' (*[Doe] v. Canada (Attorney General)*, 2016, para. 34). *Doe* asked the Federal Court to set their decisions aside because both boards were incorrect for failing to properly consider her Indigeneity, either by remaining silent or by providing only general remarks on systemic factors faced by Indigenous offenders. Second, Doe also submitted that the boards' decisions were overall unreasonable in terms of the conclusions reached, taking the position that:

> 'given her success on a gradual release program, the fact that the professionals in this case recommended her release, the fact that life in prison is at stake, the statutory mandate to reduce imprisonment of Aboriginal peoples, and the applicant's direct experience with residential schools and other unfortunate government policies, the decision is unreasonable. In this respect, [Doe] also submits that her substantive misconduct did not consist of any criminal or dangerous activity but only of associating with [her friend], whom [Doe] notes regularly attended the [community residential facility] under the observation of correctional authorities and whom the applicant considers to be a pro-social support.' (*[Doe] v. Canada (Attorney General)*, 2016, para. 35)

The Federal Court reviewed the Parole and Appeal Boards' decisions and determined that *Gladue* principles – relevant to evaluating the impact of Canada's colonial histories on an Indigenous offender's involvement in the criminal justice system (*R. v. Gladue*, 1999, pp. 82–83) – should apply to Parole-Board decisions and found that the Parole Board had not considered them (*[Doe] v. Canada (Attorney General)*, 2016, paras 72–74). *Gladue* principles developed in Canada in the context of sentencing Indigenous offenders, which requires courts to consider 'information that locates [the] defendant's behaviour within the collective histories and experiences of oppression' (Maurutto and Hannah-Moffat, 2016, p. 452) when determining the content of a sentence (including alternatives to incarceration). In the case of *Doe*, the Federal Court held that the Parole Board and Appeal Division had to weigh Doe's experience in residential schools and commitment to the Red Road, for example, against her risk factors. However, the Federal Court declined to comment on the overall reasonableness of the decisions. The Parole Board was ordered to reconsider its decision.

5 Observations

5.1 Circumstances of parole

Three primary documents formed the basis for the analysis of the circumstances of parole: two assessments for decisions written by Doe's parole officer on 10 September and 10 October 2014 (Toronto Women's Supervision Unit, 2014a; 2014b) and an update to a correctional plan completed by the same parole officer on 17 September 2014 (Toronto Women's Supervision Unit, 2014c). The documents are written during an interval between the suspension of parole upon Doe's arrest in September 2014 and the Parole Board's decision to revoke parole, but each considers information retroactively as well as contemporaneously to authorship. The earlier assessment for decision was written to 'request extended leave for [Jane Doe] to attend Enaahtig Healing Lodge Trauma Recovery Residential Program in Orillia, Ontario for 12 days' (Toronto Women's Supervision Unit, 2014a, p. 1) and the later assessment was written to 'recommend the cancellation of [Jane Doe's] recent suspension of Day Parole' (Toronto Women's Supervision Unit, 2014b, p. 1). The update to the correctional plan was written to 'advise the [Parole] Board of [Jane Doe's] recent suspension for breaching her Special Conditions to AVOID CERTAIN PERSONS and REPORT RELATIONSHIPS' (Toronto Women's Supervision Unit, 2014c, p. 3).

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Each document evaluated the risk that Doe presented to the public, qualitatively assessing the information documented about Doe in relation to various categories of risk (Toronto Women's Supervision Unit, 2014a, p. 8; 2014b, pp. 9–10; 2014c, pp. 8–17). The updated correctional plan, in particular, was treated as an authoritative text within this administrative space, recording past behaviour, speculating about future behaviour and fulsomely interpreting risk (Toronto Women's Supervision Unit, 2014c). The plan also established the conditions of release and rationalised the ongoing policing and administrative management of Doe as an inmate; indeed, Doe's disagreement with that correctional plan was incorporated into the plan itself as an indicator of risk. The combined effect of these evaluations was to determine the degree to which Doe could engage in the community in Toronto, by tightening or loosening the envelope of conditions applicable to Doe whilst on parole and by supporting decisions to transfer Doe between institutions or facilities. These evaluations also could support decisions about the profile of the community with which Doe engaged, by prohibiting Doe from entering certain spaces (e.g. drinking establishments), including at certain times, and from contacting certain people, if it was assessed that Doe's risk to the public would be affected but for those restrictions. For example, in the later assessment for decision, the parole officer recommended the cancellation of the parole suspension *and* the resumption of a restrictive schedule that Doe was placed onto prior to her apprehension (Toronto Women's Supervision Unit, 2014b, pp. 9–10). The restrictive schedule, required by her correctional plan, would not have been recommended if she had transferred jurisdictions to a healing lodge in Vancouver, British Columbia, which was the outcome preferred by the parole officer (Toronto Women's Supervision Unit, 2014b, p. 9).

The prioritisation of risk in these texts is indicative of the legal form and devices undergirding officers' judgment. This includes judgments expressed in the assessment for decisions and correctional-plan update, *and* those expressed in the surveillance of Doe by parole officers, Toronto Police Services and other unidentified affiliates, and the everyday conversations between officers and Doe, the latter of which are recorded in these texts and cited in support of parole decisions (Toronto Women's Supervision Unit, 2014c). These encounters between the parole officers and Doe all share in act of adjudicating the appropriateness of Doe's release and placement in Toronto according to judgments of risk. Significantly in this case, there are repeated moments at which parole officers emphasise Doe's 'Aboriginality', which affects Doe's presentation and movements in an urban space as an Indigenous woman and officers' judgments of risk based on the degree to which these moments are successfully taken up in Doe's subject formation. Moments of 'Aboriginalisation' – to borrow a term from Kelly Struthers Montford and Dawn Moore (2018, p. 642) – can be observed in reference to Doe's participating in 'Aboriginal resources', 'Aboriginal activities' or 'Aboriginal social activities' (Toronto Women's Supervision Unit, 2014b, pp. 3–5, 9; 2014a, pp. 6, 7, 8; 2014c, pp. 4, 12). Doe's participation in such programming was evaluated in the context of her capacity to integrate with the public, with regard to her independence and compliance with authorities (Toronto Women's Supervision Unit, 2014b, p. 9). Moments of Aboriginalisation can also be observed in officers' references to and preferences for institutional and jurisdictional transfers, such as the proposed extended leave to stay at the Enashtig Healing Lodge in Orillia and the permanent transfer to the Circle of Eagles, a culturally sensitive facility in Vancouver (Toronto Women's Supervision Unit, 2014a, p. 1; 2014b, p. 3). Here, too, Aboriginal activities or resources were framed as ameliorative for Doe, in terms of disciplining her and facilitating independence and self-governance.

Doe's resistance to the correctional plans and imbedded disciplinary processes of subject formation were also recorded in these texts and evaluated as indicators of risk. For example, Doe refused to transfer to Vancouver despite active encouragement from officers (Toronto Women's Supervision Unit, 2014c, p. 7); was not sufficiently transparent about her relationship with Ashley, occasional uses of alcohol and multiple cell phones and debit cards, violating conditions of her release; and expressed discontent with the restrictive itinerary imposed by officers to schedule Doe's day-to-day life within a diminishing area within the city of Toronto. Her relationship with Ashley, in particular, challenged parole officers not only by continuing, but also in that Doe was not clear as to whether it was romantic. Doe twice said she would marry Ashley to ensure she could continue to see her, to which officers

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

doubled down on the nature of the relationship, apparently due to a need to classify them (Toronto Women's Supervision Unit, 2014c, pp. 6–11). Doe also disclosed to officers that that she struggled with loneliness and that she wanted to find love and friendship. Despite Doe's disclosure, parole officers indicated that she had a strong social network of parole officers, social workers and an elder, suggesting her inability to cope exemplified disorder as well (Toronto Women's Supervision Unit, 2014c, pp. 9–10). In each case, the texts seem to speculate that Doe's behaviour, or her placement in certain contexts, will lead to violence, which officers attributed to her offence cycle and criminogenic factors (Toronto Women's Supervision Unit, 2014c, pp. 14–16). Predilection to crime was compounded by the severity of the index offence and Doe's 'engrained institutional mindset and [continued] distrust [of] authority figures', which was attributed to: her prolonged incarceration; her 'Aboriginal Social History', including experience of residential schools; and 'antisocial and narcissistic personality traits' (Toronto Women's Supervision Unit, 2014c, p. 10). Altogether, Doe was seen as having limited capacity to adjust in new settings, control aggressive and violent behaviour, and obtain independence, requiring high levels of intervention had parole continued (Toronto Women's Supervision Unit, 2014c, pp. 2, 17).

5.2 Review of warrants of suspension

The Parole Board's (2014) and Appeal Division's (2015) decisions to revoke parole were the primary documents analysed at this stage. The Parole Board's decision related to the review of the warrant suspending Doe's parole, which was authorised under section 135 of the Corrections and Conditional Release Act (1992) and followed procedurally after the breach of conditions set out in the correctional plan and Doe's apprehension and recommitment to a prison facility. Under section 135(5), the Parole Board was required to determine whether: (1) to terminate parole if the risk preventing the continuation of parole was 'due to circumstances beyond the offender's control', (2) to revoke parole in any other case or (3) to cancel the suspension allowing parole to continue. A determination between options (1), (2) and (3) would affect the duration and conditions of incarceration. In Doe's case, parole was revoked, which would have the consequence of delaying statutory release – a form of early release ordinarily entitled to all inmates after serving two-thirds of their sentence (Corrections and Conditional Release Act, 1992, ss. 127(5), 138(2), (4), (6)). It might also suggest, considering the requirements of option (1), that the board was not satisfied that the risks were 'due to circumstances beyond the [Doe's] control'; this seems supported by the statements discussed below. The Appeal Division's decision related to Doe's appeal against the Parole Board's decision, as permitted under section 147(1) of the Corrections and Conditional Release Act (1992). Section 147(1) permits an appeal under a number of grounds, but Doe challenged whether the decision was fair and reasonable, including the claim that the Parole Board relied upon an insufficient risk assessment to reach its decision (Parole Board of Canada, 2015, p. 2).

Like parole officers, the Parole Board and Appeal Division prioritised risk in their judgments, relating all deliberations back to the assessment of whether Doe presented a risk to the public. Both boards referred to Doe's Indigeneity, similarly evoking her participation in 'Aboriginal resources' and 'Aboriginal activities' as indications of pro-social improvements, alongside discussions of education and educational training (Parole Board of Canada, 2014, pp. 3–4). For the first time in the court file, Doe's participation in 'Aboriginal resources' and 'Aboriginal activities' are referred to as 'follow [ing] the Red Road', affirming positively Doe's statements to the boards that the Red Road was a 'guide [in her] life' (Parole Board of Canada, 2014, p. 4; also see 2015, p. 3). Elsewhere, the Red Road has been characterised as '*a journey and way to* wellbeing that First Nations people *must travel* in order to be truly well and healthy human beings' (Weaver, 2002, p. 6, emphasis added).[2] In the institutional spaces of healing lodges, the Red Road appears to involve the union of Indigenous and

[2]The Red Road is not exclusively a therapeutic practice in institutionalised healing lodges. See e.g. Gabriel Estrada (2016). But the nature of the Red Road outside institutional and correctional contexts goes beyond the scope of this paper.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Western practices to provide substance-use therapies, which can be accredited and funded by Health Canada (Gone, 2011). Generally, the Red Road involves developing Indigenous identities and learning traditional knowledge, which is conceptualised as a healing method that can counteract the 'cultural disruption' of colonisation (Thompson *et al.*, 2013, p. 61; also see Gone, 2011, p. 193). The Parole Board (2014, p. 4) also characterised the Red Road as a 'healing *journey* in the community' (emphasis added). The Parole Board's representation foregrounds the spatial characteristic of Aboriginalisation, implying a figurative space through which Doe could work towards independence and self-governance: an enclosed space that bounded Doe's body, as Roxanne Mykitiuk (1994, p. 79) put it, as an 'abstracted, disembodied, rational, universal rights bearing, contracting, possessive individual' (also see Eisen *et al.*, 2018; Nedelsky, 1990; 2012). With references to education and vocational training alongside discussion of Doe's 'follow[ing]' (Parole Board of Canada, 2014, p. 4; 2015, p. 3) the Red Road, the boards reinforce this reading of the Red Road as a pathway to an economic and legal subjectivity preferred in settler urban space, which would attenuate assessments of her risk otherwise attached to her body.

With respect to that body, the Parole Board (Parole Board of Canada, 2014, pp. 3–4; 2015, p. 3) suggested that Doe had a 'lack of insight into [her] risk factors', 'deliberately flouted instructions' and was selfish, deceptive and otherwise resistant to administrative interventions due to '*ingrained* criminal values' (emphasis added). The Parole Board (Parole Board of Canada, 2014, p. 3) cited a psychological assessment from 2010, completed prior to Doe's release, suggesting that Doe's risk could be properly attributed to her psychology, which rendered Doe prone to elevated risk of recommitting offences where 'significant life changes such as a loss of relationship or employment' occurred. Further, the Appeal Division (2015, p. 3) cited Doe's index offence of second-degree murder and the Parole Board (2014, p. 4) and Appeal Division (2015, p. 5) both cited a harm assessment completed in 2012 prior to her release – the latter of which categorised her as presenting 'moderate to high range for both general and violent recidivism' whilst in prison – to frame their representations of risk. In the case of the Appeal Division (2015, p. 3), they suggested that past violence, committed over three decades ago, could be folded into their analysis as 'relevant, reliable and persuasive information'. Even Doe's decision to decline a transfer to 'an Aboriginal halfway house [in Vancouver] which offered culturally sensitive programming' was seen as 'demonstrat[ing] resistance' to the correctional plan and an indicator of Doe's lack of insight into her ingrained criminality (Parole Board of Canada, 2015, p. 3).

5.3 Judicial review

The Federal Court decision in *[Doe] v. Canada (Attorney General)* (2016) was the primary document analysed at this stage. As noted above, the decision related to the Federal Court's judicial review of the Parole Board's and Appeal Division's decisions to revoke parole – a procedure permitted by section 18.1 of the Federal Courts Act (1985). Other documents in the court file, such as factums setting out parties' arguments and affidavits, related to the procedure of judicial review; however, these documents were not incorporated into the analysis given their summary in the decision.

The court determined that *Gladue* principles should be applied by the Parole Board in its decision-making given the deprivation of liberty at stake (*[Doe] v. Canada (Attorney General)*, 2016, paras 57–66, 72). The court (*[Doe] v. Canada (Attorney General)*, 2016, paras 50, 63) quotes from the Supreme Court of Canada's decisions in *R. v. Gladue* (1999) and *R. v. Ipeelee* (2012 SCC 13 (Canada)). Through these citations, the court affirms a distinction between artificially *intervening* and *finding* a true and fit sentence for an offender that *actually* deters or denounces crime 'in a manner that is meaningful to Aboriginal peoples' – in other words, 'a duty to approach decision-making in a manner attentive to the systemic disadvantages and discrimination which may have contributed to an Aboriginal offender's engagement with the criminal justice system' (*[Doe] v. Canada (Attorney General)*, 2016, paras 63–64). Further, the court (*[Doe] v. Canada (Attorney General)*, 2016, paras 65–66) noted that the boards had to consider the statutory context (e.g. Corrections and Conditional Release Act,

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

1992, s. 100.1) in which their decision-making was authorised, stating that 'when public safety is the focus of concern [as required by the Corrections and Conditional Release Act (1992, s. 100.1)], as a practical matter it is unlikely that [an individual's] background, as either Aboriginal or non-Aboriginal, will carry much weight'. The suggestion of a limit, bounding the scope of jurisdiction, was given full expression when the court then stated:

> '[T]he obligation is not to consider just the offender's background as a member of a First Nations community, but rather to consider the systemic and background factors which may have played a part in bringing the particular Aboriginal offender before the courts or more generally into interaction with the criminal justice system. It is these factors that the Board must take into account *as one of the considerations* underlying its assessment under section 135(5) of the Act of whether an offender will, by reoffending before the sentence expiration, *present an undue risk to society*.' (*[Doe] v. Canada (Attorney General)*, 2016, para. 67, emphases added)

Turning its attention to the boards, the court stated that the Parole Board had failed to make its decision in keeping with its jurisdiction (*[Doe] v. Canada (Attorney General)*, 2016, paras 70–71). The Parole Board considered that Doe's pursuit of the Red Road 'related to her Aboriginal background but … [did] not represent consideration of background and system factors' as required (*[Doe] v. Canada (Attorney General)*, 2016, para. 70). In the court's (*[Doe] v. Canada (Attorney General)*, 2016, para. 69) review of the audio recording of the hearing (which was not available to me in the court file), the court noted that the Parole Board commented 'that the hearing was just going to focus on the applicant's time in the community and that it was that period of time that the hearing was about', identifying the mis-making of the Parole Board's jurisdiction. It did not matter to the court (*[Doe] v. Canada (Attorney General)*, 2016, para. 71) that the Parole Board considered Doe's 'desire to follow the Red Road' in the initial decision to parole Doe under section 84 of the Corrections and Conditional Release Act (1992); this did not affect their obligation. Further, the court noted:

> '[T]he Board's comment during the hearing was to the effect that the decision to grant day parole reflected a recognition of the fact that the applicant had been following the Red Road since 2006, in contrast to problematic behaviours she had demonstrated during earlier periods of incarceration. It does not appear to the Court that the Board was referring to consideration of systemic factors such as the applicant's residential schools experience, that may have contributed to her incarceration, when it made these remarks.' (*[Doe] v. Canada (Attorney General)*, 2016, para. 71)

In effect, merely considering Doe's commitment to the Red Road was not sufficient to dispense with the Parole Board's obligation to apply those principles. The court critiqued the truncated frame deployed by the Parole Board, in which the Parole Board refused to hear information that preceded the events of Doe's parole except to construct her risk (*[Doe] v. Canada (Attorney General)*, 2016, para. 67).

What became apparent to me from the selections excerpted and summarised above was that, despite requiring the Parole Board to revisit its decision, the court was engaged in the Aboriginalisation of Doe, like the Parole Board, Appeal Division and parole officers. The court's treatment of *Gladue* principles subordinated Doe's lived experience as a Cree woman – inclusive of her desires to relate lovingly to others and form new relations in the present and future of Toronto – to the primacy of her assessed risk to the public and her enclosure as a self-propagating legal (and economic) subject. Whilst judicial consideration of the historical and ongoing manifestations of settler colonialism might work towards securing Doe's and other Indigenous women's place in urban space, the narratives of systemic factors expressed in the Federal Court's decision suggest a flattening of their effect. Considering Doe's experience of residential schools or the '60s Scoop as 'systemic factors … that may have contributed to her incarceration' – as the court (*[Doe] v. Canada (Attorney General)*, 2016, paras 71–72) expected the boards to do – would be nonetheless mediated by the statutory context and institutional practices that prioritise virtual, totalising assessments of risk. This was most clear when the court expressed

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

that *Gladue* narratives must be weighed against the Parole Board's statutory obligations to consider Doe's risk and cited jurisprudence that established that a risk to the public would overcome concern for the incarceration of an Indigenous person (*[Doe] v. Canada (Attorney General)*, 2016, paras 65–66). In doing so, correctional plans and their prioritisation of risk remain dispositive for parole officers and Parole Board and Appeal Division. However, it was also expressed as an internal limitation to *Gladue* narratives, in that their incorporation must not arbitrarily intervene in decision-making. *Gladue* narratives must respond to the present needs of a paroled individual to prevent them from reoffending. Such narrativisation does not perturb the individuating, Aboriginalising logics that pervade parole in this case-study; indeed, the court (*[Doe] v. Canada (Attorney General)*, 2016, para. 73) presumes the persistence of the Red Road as a 'positive aspect' to be weighed like any other factor into the assessment of risk, allowing the process of Aboriginalisation to persist.

Finally, as an expression of judicial review, the court's (*[Doe] v. Canada (Attorney General)*, 2016, para. 25) decision and future decisions on similar cases are constrained by the 'standards of review'. The standard of review in a given case shapes the degree of scrutiny that the court undertakes in its review of the Parole Board's and Appeal Division's decisions – a common feature in the genre of administrative law. For example, the court did not determine whether Doe's parole should be revoked because the court (*[Doe] v. Canada (Attorney General)*, 2016, para. 30) owed deference to the Parole Board according to the chosen standard of review: reasonableness; however, the Parole Board's failure to properly consider *Gladue* principles was unreasonable, so the court set aside the decision and required the Parole Board to reconsider it in light of the court's analysis. In doing so, the court (*[Doe] v. Canada (Attorney General)*, 2016, para. 74) noted that 'the decision whether to revoke [Doe's] parole … should benefit from the application of the Board's *expertise as a specialized tribunal*' (emphasis added) – a reason expressed by the court (para. 28) as underlying its deference to the boards. The standard of review, as well as comments on the Parole Board's expertise, suggests the continuation of a given state of affairs, including practices of Aboriginalisation.

6 General discussion

Kelly Hannah-Moffat (2000, p. 511) theorised that a shift in correctional policies sought to instil a 'neo-liberal conception of the self-governing subject construct[ing] the individual as a rational, free, responsible and prudent consumer who is capable of minimizing and managing risk'. Discipline was achieved through empowering or 'responsibilising' the inmate through the pedagogical spaces of halfway homes, therapy, etc., so that inmates could be 'regulated through the decisions they make without resorting to an overt expression of power' (Hannah-Moffat, 2000, p. 523). Importantly for Hannah-Moffat (2000), Teresa Dirsuweit (2005) and others, the carceral regime transfixes on making docile bodies – to borrow Foucault's term – so that texts, notions and practices rend, splay, disassemble and splice together inmates' flesh so that their bodies not only look different on the surface, but feel, think and move differently as well. Carceral governmentality – a consequence of the discursive and material space of the prison – is embodied. Dominique Moran (2014, p. 36) similarly argued that 'post-release "re-confinement" [of which parole is an example] is … [also] embodied', emphasising how the 'mutually constitutive relationship between incarcerated bodies and carceral spaces' (Moran, 2014, p. 43) mediates the extension of discipline, surveillance and confinement beyond prison walls. The body is a part of the 'carceral archipelago' (Foucault 1991, p. 298): the assemblage of mechanisms through which the carceral perfuses the city and creates pliant, governable subjects, or, in Foucault's (1991, p. 298) words, the 'transform[ation]' of the prison as a 'punitive procedure into a penitentiary technique … transported from the penal institution to the entire social body' (also see Blagg and Anthony, 2018).

Aboriginalisation is an example of the transcarceral mediated through the body. Aboriginalisation has previously been described by Kelly Struthers Montford and Dawn Moore (2018, p. 642) as the consequence of the prison as a pedagogical space, in that Indigenous inmates are encouraged to partake in cultural education, learning about traditional ways of life and participating in ceremonies.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Correctional staff designate zones within the penitentiary as Indigenous sanctuaries, and elders and teachings are vetted (Commissioner of Correctional Service of Canada, 2013; Corrections and Conditional Release Act, 1992, s. 80; Montford and Moore, 2018, p. 645), which extends into the Aboriginalisation of the parole system as well (Turnbull, 2014). Indigenous inmates undertake a project of subject formation through the performance of cultural practices, but such performance is tethered to the restorative object of cleansing their self of the criminogenic, such as substance use, disrespect for authority and violence (Allspach, 2010, pp. 714–716; Montford and Moore, 2018, pp. 647, 652–657). As Sarah Turnbull (2014, pp. 397–398) noted, '[t]he notion of the "traditional path" is [a] penal discourse that works to produce an authentic Aboriginal subject to which Aboriginal prisoners are compared', folding into carceral representations of Indigenous inmates, 'reflected and perpetuated within correctional institutions and discourses'.

Turnbull (2014, p. 397) described the transformation of an Indigenous inmate into an authentic Aboriginal as linked to decisions to grant parole, relying upon 'their participation in Aboriginal programmes or practices' to 'generate certain expectations for [Indigenous] inmates and communities' (also see Buchanan and Darian-Smith, 2011). Procedures of the correctional system become co-extensive with expressions of Aboriginality, making Aboriginalisation a productive mode of carceral control that can extend, if properly internalised and reinforced in urban space, outside the prison. This is consistent with Anke Allspach's (2010, p. 709) account of transcarcerality, in that Indigenous inmates in Canada were required to internalise 'individualising, pathologizing and self-responsibilising projects' through Aboriginal training. These projects were reflected in surveillance and controls implemented upon release, 'extending the arm of state control into all spheres of women's lives' (Allspach, 2010, p. 718) through 'restrictions on their movement, social connections and behaviour' (Allspach, 2010, p. 719).

The case-study of Jane Doe supports these accounts of Aboriginalisation as a carceral and transcarceral process of subject formation. Doe's commitment to the Red Road in prison, and during day parole in Toronto, is an example of such a project, evaluated positively by parole officers and cited in the decisions of the Parole Board, Appeal Division and Federal Court in their constructions of risk. Aboriginalisation followed Doe through the streets of Toronto as a transcarceral mode of social control and coercion (Allspach, 2010; Moran, 2014), folding together the non-prison space of urban life with the prison, as actors (e.g. parole officers, boards, courts, etc.) inscribed their evaluations of her risk onto Doe. Evaluations of risk were framed, in large part, through Doe's uptake of an Aboriginal identity shackled to individuating, pathologising and self-responsibilising discourse, reflected in the way in which Doe was spatially and temporally confined in Toronto and in how her transgressions to that spatiotemporal management were registered. However, what the foregoing discussion of my findings should also point towards, unlike these other accounts of Aboriginalisation, is the place of law (Philippopoulos-Mihalopoulos, 2016a) in this process. In other words, the case-study should demonstrate how materials of social life – including carceral forms of social control and coercion (Moran *et al.*, 2018) that this case-study and other accounts have shown – find expression through law, re-enacted through law's concrete abstractions, affecting the way in which Doe was spaced in the city of Toronto (Keenan, 2019; Philippopoulos-Mihalopoulos, 2013; 2015).

For example, there are repeated moments in which parole officers and the boards (per)formed a procedural space (Mussawir, 2017) as they encountered Doe. This procedural space was distinct from, yet continuous with, the material space of the city in which these actors were emplaced; by this, I mean the procedural space affected the unfolding of social life – particularly for Doe and those engaging Doe – according to the content of its abstractions (Butler, 2012; Pavoni, 2017), but such abstractions emerged from the nexus of matter colliding in bodily encounters in the city (also see Isin, 2007). In particular, officers and the boards exclusively encountered Doe's movements in Toronto, and resistance to transfers elsewhere, through the frames of the correctional plan – a legal device of striating, homogenising and hierarchising material space that reconfigured Doe's proper placement and belonging in the city along the correctional plan's spatiotemporal lines. Both could not conceive of Doe outside her parole conditions, citations of the index offence and psychosocial

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

profile, which reconfigured Doe's release into the community as the linear procession of a legal subject towards a complete, fictive image of rehabilitation.

The consequence to this legal form – spaced through moving bodies, roving and encountering one another in the city through atmospherics of the correctional plan and indexes of risk folded into it – is the creation of another place and time for the paroled individual alongside and separate from settler city's space-time to the extent that they fail to integrate (see e.g. Keenan, 2009; also see Massey, 2004). In part, sites like Toronto's Allan Gardens are fused with the correctional plan, so that officers encounter Doe's presence there – near those precariously housed or without a home, at night under sparse torchlight – as indicative of transgression, her being out of place or out of order. Such proscriptive zones (Sylvestre *et al.*, 2019) – constructed from conditions of her parole, officers' prior encounters with her and others in that place and notations in her correctional plan, among other matter and narratives – not only produce an ever-tightening envelope of constraints on Doe's movement. These boundaries also stage the world the Doe inhabits, materially and symbolically, so that a belated arrival home is not the result of Doe's helping to calm and counsel a suicidal friend as she believes it; the belated arrival *matters* as 'ingrained criminal values', exceeding the category of risk that requires her movement in the city to be managed. Writing about a monitoring tag fastened to the ankle of a terrorist suspect, Keenan (2019, pp. 83–84) describes how 'through the tag, law … produced a landscape in which the subject [was] physically, psychically and juridically inseparable from his surrounding space … weighed down by his history'. The correctional plan appears to operate similarly, becoming an extension of Doe's body in space, so that all spaces – even those as innocuous as a sidewalk, street corner or a friend's apartment – portend the suspension of her release irrespective of actual harm.

This procedural space was defined, in part, by its spatial representations of the rehabilitated subject as 'abstracted, disembodied, rational, universal rights bearing, contracting, possessive individual' (Mykitiuk, 1994, p. 79), which would be applicable to any inmate released on parole; but, in the case of Doe, this was also an Aboriginalised subject, whose individuation and independence was to be gained through an unbending procedure of unmaking and remaking of oneself in the image of settler urban space in pursuing the Red Road. This image of the Red Road, in and of itself, was a collage of legal forms – such as risk, status, transparency, capital, banishment – that came together in an abstract space capable of isolating, confining and displacing Indigenous bodies whose material lives leaked outside, and thereby threatened, the preferred spatiotemporal ontologies of settler life (Dirsuweit, 2005; Grosz, 1994; Pile, 1996; Shildrick, 1997). This image, the product of a procedural space, was expressed in officers' encounters with Doe, metonymising the image (Butler, 2012) of her as a failed Aboriginalised subject whose supposed predilection to violence overdetermined the degree to which she could be reintegrated into settler life. This affected Doe's presentation and movements in urban space and officers' – and the subsequently the boards' – judgments of risk. I see this pervading the Federal Court's construction of the procedures availed by *Gladue* jurisprudence, as I have indicated in my discussion of the findings above. In these ways, Doe, as an Indigenous woman, is not only placed elsewhere as a parolee, but also 'relegat[ed] [to] a third zone between subjecthood and objecthood' (Mbembe, 2003, p. 26) on the Red Road. Enacted in moments in which officers, risk indexes, etc. encounter Doe and vice versa, the Red Road becomes 'a world without spaciousness' (Mbembe, 2003, p. 27), materialised in Doe's incapacitation, where her spatial practices and imaginaries are subordinated to, and languish under the pressure of, the settler state (also see Blagg and Anthony, 2018, p. 265). This space without spaciousness is carried by Doe everywhere (see e.g. Keenan, 2019), transforming every street into the imperative to commerce and live independently and self-govern like settlers supposedly do or suffer the suspension of her release, all whilst existing in a landscape primed for her to transgress. The Red Road also dissimulates settlers' responsibility – a geography of irresponsibility as Keenan (2009) describes it – that would otherwise necessitate White settlers to, if taken seriously, confront and dismantle social structures that produce the risk they attempt to control (Monture-Angus, 1999; also see Blagg and Anthony, 2018, p. 274).

To account for and relate these effects, I see the resulting procedural space of the Red Road as an extension of lawscape; it is atmospheric, a conductive film co-extensive with the materials of social life.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

The lawscape affects the unfolding of that materiality through the expression of legal techniques and forms that constitute its procedures. This helps me to think about how disparate socio-legal actors (e.g. parole officers, boards and the Federal Court), texts (e.g. correctional plans, indexes of risk, psychometrics), roles (e.g. consumer, employee, Aboriginal), notions of justice (e.g. belonging, harm, responsibility) each participates, albeit in their distinct ways, in the production of procedural space, by acknowledging the expansive, atmospheric quality of legal abstractions that become taken up, remade and reproduced in the most fleeting of social encounters. The legal form is thereby not the zonal boundaries themselves, but instead the process of becoming materially and symbolically in the city: a *dispositif* (Pottage, 2012) or ecology (Philippopoulos-Mihalopoulos, 2013; 2015) of aesthetic, representational and material features that intra-act and effect social life. Notably, the prevalence of the correctional plan in these institutional spaces – and all the forms that are folded into that plan – appear in the textual detritus of each actor studied in this case-study, suggesting its capacity in extending of the carceral into urban space. Undoubtedly, the correctional plan does not operate alone; it forms part of a broader inscriptive network – other lawscapes – continuous with legal techniques and forms that express the carceral across space and time (Philippopoulos-Mihalopoulos, 2015).

The lawscape is also helpful in considering how these moments of Aboriginalisation might penetrate the corporeal surface of human bodies, becoming incorporated into the affective networks constitutive of such bodies (Philippopoulos-Mihalopoulos, 2015; also see Alaimo, 2010). As Billy-Ray Belcourt (2018, p. 2) reminds us, Canada's spatio-legal projects of colonialism are spaced through the body, so that the 'Indian' reserve extends through and 'circumscribes the body's potentialities', enfleshing legal space in a corporeal–material continuum. Relatedly, as noted above, Moran (2014) described how transcarceral spaces materialised in changes to the body. Doe's court file is replete with references to prolonged incarceration, ingrained criminal values and her institutional mindset affecting her capacity to integrate into urban space. Doe's parole officer also suggested that her past as a residential school survivor explains her distrust of and resistance to government authorities. Further, parole officers treated her loneliness, difficulty in self-direction and other traumas as expressions of disorder, apparent products of the regimented schedules imposed on her life. Each becomes incorporated into the correctional assessment as factors to be tallied and represented in hierarchised scores (e.g. medium and high) used to pathologise Doe's risk to the public. In addition to partaking in Doe's estrangement in the production of the lawscape, these assessments may also indicate that the lawscape affected Doe corporeally, in terms of her body and affective connections with others, in a manner that only seems to reinvigorate the correctional system's need for social control.

7 Conclusion

In considering the consequences of transcarceral lawscapes, it is helpful to recall that Engin Isin (2007, p. 212) described the city alone as existing in lived or representational space, and that all other political bodies (e.g. provinces, territories, nations) exist in spatial representations, 'ephemeral, fluid, impermanent and transient states' or mere 'assemblages that are kept together by practices organised and grounded in the city'. For Isin (2007, p. 212), the lived space of the city was embodied in those 'arrangements that constitute physicality and materiality', including 'the bodies and things that constitute it', and represented in imaginaries that took shape from social practice and organised space. Relatedly, Elizabeth Grosz (1995, p. 105) theorised that bodies interface in and with the city as assemblages, so that the matter and meaning that comprise bodies and space 'defin[e] and establish … each other' in the never-finished process of becoming a body-city. In other words, the primacy of the city in the production of space was a consequence of it being a site of bodily encounter, where bodies produced space in their encounters with other bodies (Isin, 2007).

Without necessarily accepting Isin's thesis that cities are alone in behaving in this way, lawscapes can also be treated as products of the lived and representational spaces of cities (Philippopoulos-Mihalopoulos, 2013), interlacing with the tapestry of sociopolitical projects that thread together everyday lives. Having regard to Canada's past and ongoing annexations of land lived on by First Nations and

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Inuit, the ways in which carceral control and coercion find expression in the city through law may matter materially for Indigenous peoples, in that enactments of this carceral lawscape in urban space may constrain and exclude forms of spatial life that are incompatible with settler-colonial ideas of the city. As I have noted above, this involves the production of the zones, borders or boundaries through law (Sylvestre *et al.*, 2019), which cut and splice a parolee's socio-legal relations, creating enclosures, displacements and exclusions. Lawscapes also direct us to how law makes worlds through law's aesthetic, representational and material features (Philippopoulos-Mihalopoulos, 2015), and productive of embodied spaces (Keenan 2019), which is how we come immanently to meaning and justice (Philippopoulos-Mihalopoulos, 2010): how the settler city as a White, capitalist space relies on spatio-legal projects to enclose, expropriate, accumulate and dispossess, but also pervades our capacities to sense, interpret and relate with the world so that the city becomes seemingly uninhabitable for Indigenous peoples (Keenan, 2017; 2019).

As Patricia Monture-Angus (1999, p. 27) warned us: 'the risk scales [of Corrections Canada] are all individualised instruments … [that fail] to take into account the impact of colonial oppression' (also Maurutto and Hannah-Moffat, 2016). Further, she said that risk – and the carceral regime of discipline, surveillance and confinement that it mediates – is 'incompatible with Aboriginal cultures, law and tradition' and reproductive of the original violence of settler colonialism. Transcarceral spaces may thereby form part of that broader, ongoing political project of settler colonialism as a contemporary spatio-legal regime defined by the fragmentation, capture and eradication of Indigenous peoples dissimulated by the hypervisibility of penal logics of risk and rehabilitation. As Jane Doe said to the Canadian Broadcasting Company, prisons were 'warehousing humans' and Indigenous inmates were quickly 'labelled as no-good, drunken welfare Indian[s]', treating them as if they were 'still in that residential school, so to speak, in prison. We're still governed by the government, we're still controlled by the government. It's basically the same thing'.[3]

The lawscape seems to have given effect to the same whilst Doe was released on parole.

As I bring this particular case-study to an end, I want to remember that sensing the legal form as process, dispositif or ecology does not foreclose change or ruptures – instead, the concept of lawscape helps me to sense and theorise it. Keenan (2014) argues that moments of decolonisation exist presently through the practices, representations and lived spaces of Indigenous peoples. Keenan (2014, p. 166) draws from 'Massey's theorisation of space as "dynamic heterogenous, simultaneity",' arguing that 'space [is] the ever-unfolding dimension of multiplicity, and place as a specific constellation or moment within place'. She also draws from Eve Tuck and K. Wayne Yang (2012) to argue that '[decolonisation] is an "elsewhere"' (Keenan, 2014, p. 167) that exists now, beside and against settler forms of life. Keenan (2014, p. 165) implores settler scholars, like myself, to not only 'identify and critique the structural and incipient ways in which law continues to colonise'; we also must work to avoid 'eras[ing] from view Indigenous activism, scholarship, and struggle that is actively undoing this historicization and producing moments of decolonisation'. This includes, for example, Hadley Louise Friedland's (2018) scholarship on Cree and Anishinabek responses to violence (namely the legal principles of *Wetiko*), the protests of Idle No More demanding government consultation with Indigenous peoples (CBC, 2013) and barricades at Wet'suwet'en Nation blocking the construction of pipelines on their unceded land (Pasternak, 2020). Doe's resistance – rioting in the Kingston Prison for Women (Fennell, 1995),[4] defying the correctional plan and her ongoing activist work – may all form part of producing decolonisation here and now. For these reasons, it is important for me to stress that the transcarceral lawscape that I have sought to describe with this case-study is enacted in *moments of* Aboriginalisation; the lawscape is produced iteratively in events of bodily encounter and, accordingly, takes plural, heterogenous forms. Moments of enactment or articulation allow contrapuntal, antinomian projects to co-exist with transcarceral lawscapes and mediate the production of space.

[3]*Ontario Morning* (2018) CBC Radio 1, 5 April.

[4]See Commission of Inquiry into Certain Events at the Prison for Women in Kingston.

https://doi.org/10.1017/S1744552320000427 Published online by Cambridge University Press

Conflicts of Interest. None.

Acknowledgements. Joshua is grateful for the help of Drs Ranu Basu, Roxanne Mykitiuk and Umut Özsu during the research, writing and revision process. Joshua also gives his thanks to the Carceral Geography Working Group for their input on an earlier version of this paper presented at the 2019 conference of the Royal Geographical Society (with the IBG).

References

Alaimo S (2010) *Bodily Natures: Science, Environment, and the Material Self*. Bloomington, IN: Indiana University Press.

Allspach A (2010) Landscapes of (neo-)liberal control: the transcarceral spaces of federally sentenced women in Canada. *Gender, Place and Culture* **17**, 705–723.

Baer LD and Ravneberg B (2008) The outside and inside in Norwegian and English prisons. *Geografiska Annaler: Series B, Human Geography* **90**, 205–216.

Barad K (2007) *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning*. Durham, NC: Duke University Press.

Barr O (2016) *A Jurisprudence of Movement: Common Law, Walking, Unsettling Place*. Abingdon: Routledge.

Barr O (2019) Movement: an homage to legal drips, wobbles and perpetual motion. In Philippopoulos-Mihalopoulos A (ed.), *Routledge Handbook of Law and Theory*. Abingdon: Routledge, pp. 129–150.

Belcourt BR (2018) Meditations on reserve life, biosociality, and the taste of non-sovereignty. *Settler Colonial Studies* **8**, 1–15.

Bennett L (2018) Towards a legal psychogeography: pragmatism, affective-materialism and the spatio-legal. *Revue Géographique de l'Est* **58**, 1–18.

Blagg H and Anthony T (2018) 'Stone walls do not a prison make': bare life and the carceral archipelago in colonial and postcolonial societies. In Stanley E (ed.), *Human Rights and Incarceration*. London: Palgrave Macmillan, pp. 257–283.

Blomley NK (1994) *Law, Space, and the Geographies of Power*. New York: Guilford.

Blomley NK and Bakan JC (1992) Spacing out: towards a critical geography of law. *Osgoode Hall Law Journal* **30**, 661–690.

Brighenti AM (2010) Lines, barred lines: movement, territory and the law. *International Journal of Law in Context* **6**, 217–227.

Brinkmann S (2014) Doing without data. *Qualitative Inquiry* **20**, 720–725.

Brinkmann S (2017) Humanism after posthumanism: or qualitative psychology after the 'posts'. *Qualitative Research in Psychology* **14**, 109–130.

Buchanan N and Darian-Smith E (2011) Introduction: law and the problematics of Indigenous authenticities. *Law and Social Inquiry* **36**, 115–124.

Butler C (2012) *Henri Lefebvre: Spatial Politics, Everyday Life and the Right to the City*. Abingdon: Routledge.

Carlton B and Segrave M (2016) Rethinking women's post-release reintegration and 'success'. *Australian and New Zealand Journal of Criminology* **49**, 281–299.

CBC (2013) Idle no more: a protest for Aboriginal rights. Canadian Broadcasting Company, Toronto. Available at https://curio.ca/en/video/idle-no-more-a-protest-for-aboriginal-rights-4118/ (accessed 21 December 2020).

CBC (2018) Cree woman says systemic racism led to wrongful conviction in 1979. Canadian Broadcasting Company, Toronto. Available at https://www.cbc.ca/news/canada/windsor/joey-twins-indigenous-justice-system-canada-1.4603894 (accessed 21 December 2020).

Commissioner of Correctional Service of Canada (2013) Commissioner's Directive 702. Correctional Service of Canada.

Cowan D and Wincott D (2016) Exploring the 'legal'. In *Exploring the 'Legal' in Socio-legal Studies*. London: Palgrave, pp. 1–31.

Delaney D (2003) Beyond the word: law as a thing of this world. In Holder J and Harrison C (eds), *Law and Geography: Current Legal Issues*. Oxford: Oxford University Press, pp. 67–84.

Delaney D (2010) *The Spatial, the Legal and the Pragmatics of World-making: Nomospheric Investigations*. Abingdon: Routledge.

Dirsuweit T (2005) Bodies, state discipline, and the performance of gender in a South African women's prison. In Nelson L and Seager J (eds), *A Companion to Feminist Geography*. Hoboken, NJ: John Wiley & Sons, pp. 350–362.

Doe J (2015) Affidavit of Applicant. Federal Court of Canada.

Dorries H, Hugill D and Tomiak J (2019) Racial capitalism and the production of settler colonial cities. Geoforum published online 19 August. Available at https://doi.org/10.1016/j.geoforum.2019.07.016 (accessed 8 January 2021).

Dorsett S (2007) Mapping territories. In McVeigh S (ed.), *Jurisprudence of Jurisdiction*. Abingdon: Routledge, pp. 137–158.

Dorsett S and McVeigh S (2007) Questions of jurisdiction. In McVeigh S (ed.), *Jurisprudence of Jurisdiction*. Abingdon: Routledge, pp. 3–18.

Dorsett S and McVeigh S (2012) *Jurisdiction*. Abingdon: Routledge.

Eisen J, Mykitiuk R and Scott DN (2018) Constituting bodies into the future: toward a relational theory of intergenerational justice. *UBC Law Review* **51**, 1–53.

Estrada G (2016) Ojibwe lesbian visual AIDS: on the Red Road with Carole LaFavor, Her Giveaway (1988), and Native LGBTQ2 film history. *Journal of Lesbian Studies* **20**, 388–407.

Fennell T (1995) Jailhouse shock. Macleans, 6 March. Available at https://archive.macleans.ca/article/1995/3/6/jailhouse-shock (accessed 21 December 2020).

Foucault M (1991) *Discipline and Punish: The Birth of the Prison*. London: Penguin.

Fox NJ and Alldred P (2015) New materialist social inquiry: designs, methods and the research-assemblage. *International Journal of Social Research Methodology* **18**, 399–414.

Friedland HL (2018) *The Wetiko Legal Principles: Cree and Anishinabek Responses to Violence and Victimization*. Toronto: University of Toronto Press.

Gill N *et al.* (2018) Carceral circuitry: new directions in carceral geography. *Progress in Human Geography* **42**, 183–204.

Gone JP (2011) The Red Road to wellness: cultural reclamation in a Native First Nations community treatment center. *American Journal of Community Psychology* **47**, 187–202.

Grear A (2017) Foregrounding vulnerability: materiality's porous affectability as methodological platform. In Philippopoulos-Mihalopoulos A and Brooks V (eds), *Research Methods in Environmental Law: A Handbook*. London: Elgar, pp. 3–28.

Grosz E (1994) *Volatile Bodies: Toward a Corporeal Feminism*. Bloomington: Indiana University Press.

Grosz E (1995) Bodies-cities. In Grosz E (ed.), *Space, Time, and Perversion*. Abingdon: Routledge, pp. 103–110.

Hannah-Moffat K (2000) Prisons that empower: neo-liberal governance in Canadian women's prisons. *British Journal of Criminology* **40**, 510–531.

Isin E (2007) City.state: critique of scalar thought. *Citizenship Studies* **11**, 211–228.

Kang HY and Kendall S (2019) Legal materiality. In Stern S, Del Mar M and Meyler B (eds), *The Oxford Handbook of Law and Humanities*. Oxford: Oxford University Press, pp. 21–37.

Keenan S (2009) Australian legal geography and the search for postcolonial space in Chloe Hooper's The Tall Man: Death and Life on Palm Island. *Australian Feminist Law Journal* **30**, 173–199.

Keenan S (2010) Subversive property: reshaping malleable spaces of belonging. *Social and Legal Studies* **19**, 423–439.

Keenan S (2014) Moments of decolonization: Indigenous Australia in the here and now. *Canadian Journal of Law and Society* **29**, 163–180.

Keenan S (2017) Smoke, curtains and mirrors: the production of race through time and title registration. *Law and Critique* **28**, 87–108.

Keenan S (2019) A prison around your ankle and a border in every street: theorising law, space and the subject. In Philippopoulos-Mihalopoulos A (ed.), *Routledge Handbook of Law and Theory*, Abingdon: Routledge, pp. 71–90.

Lambert L (2019) Becoming teacher, becoming researcher: reconsidering data analysis in post-qualitative practitioner research. *Practice* **1**, 151–168.

Lefebvre H (1991) *The Production of Space*. Oxford: Blackwell Publishing.

Marx K (1973) *Gundrisse: Foundations of the Critique of Political Economy (Rough Draft)*. London: Penguin.

Massey D (2004) Geographies of responsibility. *Geografiska Annaler: Series B, Human Geography* **86**, 5–18.

Massey D (2006) Landscape as a provocation: reflections on moving mountains. *Journal of Material Culture* **11**, 33–48.

Maurutto P and Hannah-Moffat K (2016) Aboriginal knowledges in specialized courts: emerging practices in Gladue courts. *Canadian Journal of Law and Society* **31**, 451–471.

Mawani R (2002) In between and out of place: mixed-race identity, liquor, and the law in British Columbia, 1850–1913. In Razack S (ed.), *Race, Space, and the Law: Unmapping a White Settler Society*. Toronto: Between the Lines, pp. 47–70.

Mawani R (2010) 'Half-breeds,' racial opacity, and geographies of crime: law's search for the 'original' Indian. *Cultural Geographies* **17**, 487–506.

Mbembe A (2003) Necropolitics. *Public Culture* **15**, 11–40.

Merry SE (2001) Spatial governmentality and the new urban social order: controlling gender violence through law. *American Anthropologist* **103**, 16–29.

Miller LL (2015) The use of case studies in law and social science research. *Annual Review of Law and Social Science* **14**, 381–396.

Mommersteeg B (2014) *Space, territory, occupy: towards a non-phenomenological dwelling*. Unpublished Master's thesis, University of Western Ontario, London, Canada. Available at https://ir.lib.uwo.ca/etd/2510/ (accessed 21 December 2020).

Montford KS and Moore D (2018) The prison as reserve: governmentality, phenomenology, and Indigenizing the prison (studies). *New Criminal Law Review* **21**, 640–663.

Monture-Angus P (1999) Women and risk: Aboriginal women, colonialism. *Canadian Women's Studies* **19**, 24–29.

Moran D (2012) 'Doing time' in carceral space: timespace and carceral geography. *Geografiska Annaler: Series B, Human Geography* **94**, 305–316.

Moran D (2014) Leaving behind the 'total institution'? Teeth, transcarceral spaces and (re)inscription of the formerly incarcerated body. *Gender, Place and Culture* **21**, 35–51.

Moran D and Keinänen A (2012) The 'inside' and 'outside' of prisons: carceral geography and home visits for prisoners in Finland. *Fennia – International Journal of Geography* **190**, 62–76.

Moran D and Schliehe AK (2017) 'Introduction: co-production and carceral spatiality. In Moran D and Schliehe AK (eds), *Carceral Spatiality: Dialogues between Geography and Criminology*. London: Palgrave, pp. 1–9.

Moran D, Turner J and Schliehe AK (2018) Conceptualizing the carceral in carceral geography. *Progress in Human Geography* **42**, 666–686.
Mussawir E (2011) *Jurisdiction in Deleuze: The Expression and Representation of Law*. Abingdon: Routledge.
Mussawir E (2017) Justice 'from room to room': toward a concept of procedural space in Kafka's The Trial and the fictional work of Western jurisprudence. In Butler C and Mussawir E (eds), *Spaces of Justice: Peripheries, Passages, Appropriations*. Abingdon: Routledge, pp. 37–53.
Mykitiuk R (1994) Fragmenting the body. *Australian Feminist Law Journal* **2**, 63–98.
Nedelsky J (1990) Law, boundaries, and the bounded self. *Representations* **30**, 162–189.
Nedelsky J (2012) *Law's Relations: A Relational Theory of Self, Autonomy, and Law*. Oxford: Oxford University Press.
Parole Board of Canada (2014) Parole Board of Canada decision, 890138A. Parole Board of Canada, from Federal Court of Canada Court File T-1341-15, Exhibit B to Applicant's Affidavit.
Parole Board of Canada (2015) Parole Board of Canada Appeal Division decision, 890138A. Parole Board of Canada, from Federal Court of Canada Court File T-1341-15, Exhibit C to Applicant's Affidavit.
Pasternak S (2014) Jurisdiction and settler colonialism: where do laws meet. *Canadian Journal of Law and Society* **29**, 145–161.
Pasternak S (2020) Wet'suwet'en: why are Indigenous rights being defined by an energy corporation. Yellowhead Institute. Available at https://yellowheadinstitute.org/2020/02/07/why-are-indigenous-rights-being-defined-by-an-energy-corporation/ (accessed 21 December 2020).
Pasternak S, Collis S and Dafnos T (2013) Criminalization at Tyendinaga: securing Canada's colonial property regime through specific land claims. *Canadian Journal of Law and Society* **28**, 65–81.
Pavoni A (2017) Abstracting method: taking legal abstractions seriously. In Philippopoulos-Mihalopoulos A and Brooks V (eds), *Research Methods in Environmental Law: A Handbook*. London: Elgar, pp. 51–79.
Philippopoulos-Mihalopoulos A (2007) Fear in the lawscape. In Přibáň J (ed), *Bauman's Liquid Law and Society*. Oxford: Hart.
Philippopoulos-Mihalopoulos A (2010) Spatial justice: law and the geography of withdrawal. *International Journal of Law in Context* **6**, 201–216.
Philippopoulos-Mihalopoulos A (2013) Atmospheres of law: senses, affects, lawscapes. *Emotion, Space and Society* **7**, 35–44.
Philippopoulos-Mihalopoulos A (2015) *Spatial Justice: Body, Lawscape, Atmosphere*. Abingdon: Routledge.
Philippopoulos-Mihalopoulos A (2016a) Conclusions: a socio-legal metatheory. In Cowan D and Wincott D (eds), *Exploring the 'Legal' in Socio-Legal Studies*. London: Palgrave, pp. 245–257.
Philippopoulos-Mihalopoulos A (2016b) Flesh of the law: material legal metaphors. *Journal of Law and Society* **43**, 45–65.
Pile S (1996) *The Body and the City: Psychoanalysis, Space and Subjectivity*. Abingdon: Routledge.
Pottage A (2012) The materiality of what? *Journal of Law and Society* **39**, 167–183.
Povinelli EA (2016) *Geontologies: A Requiem to Late Liberalism*. Durham, NC: Duke University Press.
Razack S (2002) When place becomes race. In Razack S (ed.), *Race, Space, and the Law: Unmapping a White Settler Society*. Toronto: Between the Lines, pp. 1–20.
Schwandt TA and Gates EF (2018) Case study methodology. In Denzin NK and Lincoln YS (eds), *The SAGE Handbook of Qualitative Research*. Thousand Oaks, CA: SAGE.
Shaw JDM (2020a) Confronting jurisdiction with antinomian bodies. Law, Culture and the Humanities published online 20 July. Available at https://doi.org/10.1177/1743872120942770 (accessed 8 January 2021).
Shaw JDM (2020b) The spatio-legal production of bodies through the legal fiction of death. Law and Critique published online 2 June. Available at https://doi.org/10.1007/s10978-020-09269-5 (accessed 15 January 2021).
Shildrick M (1997) *Leaky Bodies and Boundaries: Feminism, Postmodernism and (Bio)Ethics*. Abingdon: Routledge.
Sylvestre ME, Blomley N and Bellot C (2019) *Red Zones: Criminal Law and the Territorial Governance of Marginalized People*. Cambridge: Cambridge University Press.
Thompson GE, Cameron RE and Fuller-Thomson E (2013) Walking the Red Road: the role of First Nations grandparents in promoting cultural well-being. *International Journal of Aging and Human Development* **76**, 55–78.
Tomiak J (2017) Contesting the settler city: Indigenous self-determination, new urban reserves, and the neoliberalization of colonialism. *Antipode* **49**, 928–945.
Toronto Women's Supervision Unit (2014a) Assessment for Decision, 10 September. Correctional Service of Canada, from Federal Court of Canada Court File T-1341-15, Exhibit D to Applicant's Affidavit.
Toronto Women's Supervision Unit (2014b) Assessment for Decision, 10 October. Correctional Service of Canada, from Federal Court of Canada Court File T-1341-15, Exhibit E to Applicant's Affidavit.
Toronto Women's Supervision Unit (2014c) Correctional Plan Updated, 17 September. Correctional Service of Canada, from Federal Court of Canada Court File T-1341-15, Exhibit F to Applicant's Affidavit.
Tuck E and Yang KW (2012) Decolonization is not a metaphor. *Decolonization: Indigeneity, Education & Society* **1**, 1–40.
Turnbull S (2014) Aboriginalising the parole process: 'culturally appropriate' adaptations and the Canadian federal parole system. *Punishment & Society* **16**, 385–405.
Turner J (2016) *The Prison Boundary: Between Society and Carceral Space*. London: Palgrave.
Turner J and Moran D (2019) Careful control: the infrastructure of water in carceral space. *Area* **51**, 208–215.
Valverde M (2009) Jurisdiction and scale: legal 'technicalities' as resources for theory. *Social and Legal Studies* **18**, 139–158.

Valverde M (2014) *Chronotopes of Law: Jurisdiction, Scale and Governance*. Abingdon: Routledge.
Weaver HN (2002) Perspectives on wellness: journeys on the Red Road. *Journal of Sociology and Social Welfare* **29**, 5–15.
Whatmore S (2002) *Hybrid Geographies: Natures Cultures Spaces*. London: SAGE.

Cite this article: Shaw JDM (2020). Transcarceral lawscapes enacted in moments of Aboriginalisation: a case-study of an Indigenous woman released on urban parole. *International Journal of Law in Context* **16**, 422–442. https://doi.org/10.1017/S1744552320000427