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Discourses of Disavowal: Gendered Anti-Blackness in State and Media Strip-Search Archives

by Stephanie Latty

Abstract: This article undertakes a critical examination of prevailing discourses circulated by public authorities and the media during the weeks and months following three instances of Black women and girls being strip-searched by police in Canada: Audrey Smith in Toronto in 1993, three unnamed Black girls in Halifax in 1995, and Stacy Bonds in Ottawa in 2008. By focusing on three primary discourses of disavowal evident in both media accounts and legal records of these cases, this article sheds light on how collusion among the Canadian state, the criminal justice system, and the media culminate in narratives that re-install the national myth of Canada as a benevolent nation. Ultimately, the paper argues that the violence of the strip-search is naturalized through the disavowal of gendered anti-Black violence and liberal discourses of reform are upheld.

Keywords: anti-Black racism; disavowal; gender; police violence; strip-search; state violence

Résumé: Cet article procède à un examen critique des discours dominants véhiculés par les autorités publiques et les médias au cours des semaines et des mois qui ont suivi trois cas où la police a fouillé à nu des femmes et de jeunes filles noires au Canada : Audrey Smith à Toronto en 1993, trois jeunes filles noires non nommées à Halifax en 1995 et Stacy Bonds à Ottawa en 2008. En se penchant sur les trois principaux discours de désaveu que l'on retrouve aussi bien dans les médias que dans les archives juridiques de ces affaires, cet article montre comment la collusion entre l'État canadien, le système de justice pénale et les médias mène à des discours qui rétablissent le mythe national selon lequel le Canada est une nation bienveillante. Enfin, l'article soutient que le désaveu de la violence sexiste à l'égard des Noires naturalise la violence de la fouille à nu et que les discours libéraux de réforme sont maintenus.

Mots clés: racisme envers les Noirs; désaveu; genre; violence policière; fouille à nu; violence de l'État

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Introduction

In many ways, Canada is an expert in forgetting. Throughout history and well into our contemporary moment, one can see that the Canadian nation-state sustains itself as a colonial, white-supremacist nation through denial, disavowal, and the wilful erasure of racial violence and attempted genocide (Jiwani 2006; Gulliver 2018). Through a series of rhetorical and material moves, the state[1] makes particular things, people, places, and violence willfully forgotten, overwriting its own violent spatial, psychic, and material histories of anti-Blackness and settler colonialism with liberal discourses about a state committed to equality and the improvement of the lives of Black, Indigenous, and racialized peoples (Razack 2015).

This article provides a critical analysis of dominant discourses in news media and legal narratives that public authorities and mainstream media outlets disseminated in the weeks and months after three instances of Black women and girls being strip-searched by police in Canada: Audrey Smith in Toronto in 1993, three unnamed Black girls in Halifax in 1995, and Stacy Bonds in Ottawa in 2008. Within the law and media narratives of the strip-searches, discourses of disavowal are discourses that erase the centrality of gendered anti-Blackness and position anti-Blackness as exceptional rather than constitutive of the nation-state (Jiwani 2006). These discourses reveal the ways in which the Canadian state, in tandem with the media, create narratives that re-install the myths of a white nation. As Razack (2002) writes, "A quintessential feature of white settler mythologies is, therefore, a disavowal of conquest, genocide, slavery and the exploitation of the labour of peoples of colour" (2). I argue that the police, legal actors, and the media collectively shape Canada as a white settler colonial nation-state through the deployment of liberal discourses of reform.[2] Disavowal is a crucial part of this process.

The qualitative data that forms the basis of this article included publicly available legal documents and media articles from mainstream newspapers including the *Toronto Star*, the *Globe and Mail*, and the *Ottawa Citizen* and amounted to hundreds of pages of data per case. Databases including CanLii were used to search for legal documents and Google News, Lexis Nexis, and ProQuest were used to search for media documents about each of the three cases. Legal documents analyzed for each case were limited to what was publicly available. I asked the questions: What kinds of knowledges are produced about Black women and girls in the state, legal, and media discourses surrounding the strip search? How does the strip search of Black women and girls become routinized and everyday? In order to answer these questions, I built on and departed from Critical Discourse Analysis methodology by applying a Black feminist approach to center Black women and girls in my analysis and attend to intersecting and interlocking forms of domination that work to shape the discourses about Black women and girls (Hook 2007; Van Dijk 1993; Lazar 2007; Razack 1998; Crenshaw 1993). I not only illuminate the language that surrounds Black women and girls in the texts but also interrogate the work that these discourses do to maintain material-gendered anti-Black violence (Hook 2007).

In Part I, in order to establish disavowal as a grounding concept for this article, I draw from Hesse (2004), Jung and Costa Vargas (2021), and Ambikaipaker (2021) to discuss the ways in which racism is exceptionalised in liberal nation-states and to consider how to re-centre the constitutive nature of anti-Black racism. Next, through a brief genealogy of modern policing in Canada, I argue that while dominant discourses operating in the archives of the strip-search cases position violence as aberrational and a matter of individual police officers, anti-Black and settler-colonial violence form the foundation of policing as an institution in Canada.

In Part II, I discuss three dominant discourses present in the media and legal archives of the strip-search cases that disavow anti-Blackness and the violence of the strip-search encounter. First, I discuss the ways in

which racism is explicitly denied by state actors in the media and legal narratives of the strip-searches of Audrey Smith and Stacy Bonds. Second, I discuss the case of the Halifax Three and how, through a series of discursive moves which render racism unspeakable, the state and media narratives reverse harm, positioning the police as the harmed subject while erasing the violence done to the girls. Third, I discuss how law relies on narratives of exceptionality deploying the language of "exigent circumstances" to justify strip-searches, concealing its own culpability and compounding anti-Black harm.

Case Summaries

In this article, I analyze three cases of Black women and girls being strip-searched in Canada: Stacy Bonds in Ottawa in 2008, Audrey Smith in Toronto in 1993, and three unnamed Black girls in Halifax in 1995. In 2008, 27-year-old Stacy Bonds was stopped by Ottawa Police officers after they alleged that she spoke to two men in a van and took a sip from a bottle, which she then threw into a garbage can. After asking why she was stopped, Bonds was arrested and taken to a nearby police station where four officers violently strip-searched her. During the search, police officers cut off her clothing with a pair of safety scissors and held her down with a Plexiglass riot shield. Video footage of her assault was and continues to be widely circulated on the internet and in the media. Subsequently, Bonds launched a $1.2 million-dollar civil suit against the police officers involved. In March 2011, the Special Investigations Unit charged Sgt. Steven Desjourdy with sexual assault with regards to Bonds' case. He was later acquitted before an Ontario criminal court judge. In 2014, Desjourdy's conduct was found to be discreditable under the Police Services Act and he was ordered to forfeit 20 days of pay.

The second case is that of Audrey Smith, a thirty-seven-year-old Jamaican tourist who visited Toronto in 1993. After receiving information that Smith was in possession of crack cocaine hidden in her underwear, Toronto police officers publicly strip-searched her at the corner of a busy intersection. No drugs were found. Audrey Smith subsequently filed a complaint against the officers; however, the process saw numerous delays. In April 1994, the complaint was referred to an independent board of inquiry, which was halted and disbanded soon after when a possible conflict of interest was discovered. After a lengthy delay, the inquiry was re-established but once more disbanded over allegations of bias on the panel. The allegations of bias focused on one of the members' involvement with the Congress of Black Women, an organisation which had made a public statement condemning the strip-searches done to Audrey Smith earlier that year. A third and final board of inquiry was assembled in December 1994. When the case finally culminated in September 1995, the officers involved were acquitted of any discreditable conduct.

Third, in 1995, three 12-year-old Black girls were strip-searched by Constable Carol Campbell-Waugh in a Halifax school after cash went missing from the desk of an administrator. According to legal documents, Campbell-Waugh was called to St. Patrick's-Alexandra School, described as an inner-city school with students who are predominantly Black and poor. After denying the theft, the girls testified "that they were required to remove their socks, shoes and jeans and pull down their underwear" (Campbell v. Jones 2002, 2). Campbell-Waugh asserted that she did not ask the girls to pull down their underwear but only "to pull it away from their bodies so that she could see if the $10.00 was in their underwear" (para. 2). The girls were not informed of their legal rights prior to or during the search, including the right to refuse to be searched, and their parents or guardians were not contacted prior to the search. Further, the strip-search was conducted with all three girls present in the room and in an office that was not private but with windows looking out into the hallway (Campbell v. Jones 2002). In the wake of the strip-search, the girls and their families sued Campbell-Waugh, the vice-principal of the school who left the girls alone with the officer, the Halifax School Board, the Halifax Police Department, and the City of Halifax. The lawsuit was ultimately settled out of court. Weeks after the girls and their families filed their lawsuit, Campbell-Waugh

sued Anne Derrick and Rocky Jones, the lawyers who defended the children and their families for $240,000 in damages for defamation after the lawyers asserted during a press conference that Campbell-Waugh was "motivated by racism" (Campbell v. Jones 2002, 5). Campbell-Waugh was initially awarded the $240, 000 in May 2001, but in October 2002 the decision was overturned in a Court of Appeal. Campbell-Waugh then brought the defamation case to the Supreme Court, where it was dismissed. These three cases—the case of Stacy Bonds, Audrey Smith and the unnamed Halifax Three form the basis of this article.

Part I: Racism as Aberrational

In a foundational article, "Im/plausible Deniability: Racism's Conceptual Double Bind," Hesse (2004) argues that after the Second World War, racism came to be understood as a concept rooted in morality. Anxious to distance themselves from fascism and the genocidal violence of the Holocaust, Western nations went to great lengths to define racism as "morally indefensible" (Hesse 2004, 18). Racism came to be understood as an exception - as a distortion in worldview or a matter of individual bad decision-making. This conceptualization of racism continues to prevail in neo-liberal nation-states like Canada. Racism is understood as an aberration, a "pernicious influence" (19), or a "contaminant of modernity" rather than an integral and constitutive component of liberal nation-states (22). In institutions like policing, racism is recast as a matter of individual prejudice or discrimination and is "pointedly associated with excesses, lapses, distortions and derelictions" (Hesse 2004, 10). If racism is understood as a corruption in an otherwise morally pure society, it follows that racist societies are only those exceptional cases such as Nazi Germany, in which fascism is seen to have only temporarily gained a foothold (Hesse 2004). Hesse proposes that racism is better understood as "*a socially instituted conceptual form* of arrangements, relations, activities, representations, exploitation, domination and violence" (24, emphasis in original). Racism in modern liberal nation-states came to be understood as solely discrimination and exclusion, while experiences of racism that fell outside of this paradigm were deemed incomprehensible under a liberal rubric (Hesse 2004). The conceptualization of racism in liberal democracies is marked by a "constitutively antagonistic conceptual dialogue" in which racism is foregrounded as extreme acts of violence while, simultaneously, structural, institutional, and everyday violence is denied (14). This simultaneous enacting and obscuring of racism can be observed in the way that Canada as a nation-state positions itself at once as a progressive, multicultural nation while at the same time enacting racial violence in spectacular and everyday ways and disavowing the ways in which ongoing settler colonialism and anti-Blackness constitute the state.

Emphasizing this further, Jung and Costa Vargas (2021) declare that since "the dawn of modernity, Black people have been progressively, singularly positioned—materially and symbolically—as the 'slave race' around the globe" (4). The closing of Blackness, they note, "has been the most decisive and definitive, marking the outer boundary of the human" (5). Walcott (2014), a scholar of Black Canada, similarly observes that what it means to be human is continually defined in opposition to Black people and Blackness. Since the Enlightenment, the figure of the universal human has underwritten all aspects of the current order of knowledge. For the universal human subject to come into existence, there must always be a non-human thing to serve as the backdrop against which the Human can see itself as *not*. Even in the move to define the criteria of humanity, a non-human category is created automatically in contradistinction. Blackness is what structures the figure of the human, providing it the backdrop upon which it can come to exist and violence is integral to the process of creating a category of non-human beings. Wilderson (2010) notes that the human "could not have produced itself without the simultaneous production of that walking destruction which became known as the Black" (21). It is because of this pervasive global anti-Blackness and the unique eviction of Black people from the category of the Human that anti-Blackness must be distinguished from racism (Jung & Costa Vargas 2021; Wilderson 2010).

Scholars have also emphasized that the kind of gendered anti-Blackness we see in strip-searches is constitutive of the modern state. As Ambikaipaker (2021) argues in the British context, "Black women's lived experiences of historically continuous violation, dishonor and routine anti-racist failures in seeking justice emerge not as individual aberrations but as naturalized and perverse modes of inuring anti-Black coherence into British rule of law" (199). To situate this argument further, Ambikaipaker (2021) examines the case of Gillian Smith, a St. Lucian woman living in Britain in 1969 who was out shopping when she got into a heated verbal argument with an old friend she was with at the time. The police arrived and proceeded to badly beat Smith, call her racial slurs, and sexualize her while strip-searching her. Smith was released four hours later and charged with "threatening behaviour and interfering with the police in the course of their duties" (211). For Ambikaipaker, Black women's experiences with the police in Britain are indicative of how the rule of law is secured through gendered anti-Blackness. Given its foundational role, gendered anti-Blackness engenders a sustained and energetic disavowal of violence against Black women.

The disavowal of anti-Blackness in Canada is one of the most pervasive ways that anti-Blackness operates. It occurs in many ever-changing ways, including the use of euphemistic language to describe race and racism, individualization, the dehistoricization and decontextualization of racism and the deeming of conversations about racism as taboo or off-limits (Gulliver 2018; Jiwani 2006). In theorizing the denial of anti-Blackness in the context of Brazil and the United States, Vargas (2018) mobilizes the concept of "oblique identification"—that is, "a type of multiracial political ethos in which Black [people] are at once central and by virtue of the denial of antiblackness not recognized as social beings paradigmatically engaged in structures of foundational dehumanization" (48). Through "oblique identification," Vargas (2018) further explicates the ways in which the acknowledgement of issues such as police violence against Black people can happen at the same time as the disavowal of anti-Blackness within political spheres. In Canada, this occurs in the context of the mythology of Canadian benevolence. The disavowal of anti-Blackness works to animate the mythology of Canada as a white nation free of racism with liberal, multicultural values.

One way in which we can trace discourses of disavowal is to attend to how nations construct themselves in and through media and legal discourses. The material and symbolic work of legal discourses are not contained within the walls of a courtroom and, concomitantly, narratives contained within mainstream media narratives about race and Blackness do not stop at the margins of a newspaper article (Hall 1997; Lawson 2002; Razack 2015; Dayan 2011). Legal and media discourses travel, flow, and shape one another. As part of the logic of colonialism, law itself is violence, deeply implicated in maintaining colonial, racialized, and anti-Black relations of power. Dayan (2011) argues that one must pay close attention to the ways in which legal discourses describe carceral practices such as slavery, confinement, and punishment, as well as how the state defends these practices as necessary through law. Jiwani (2006) asserts that the ideas and feelings circulated within the media influence other institutions, including social policy, policing, immigration, and law. If particular groups of people are consistently represented as criminals, then they may be punished or have their rights curtailed through incarceration or over-policing (Jiwani 2006). The ways in which Black, Indigenous, and racialized peoples are imagined in the media can generate public fear, which can then advance a political agenda that pushes violent carceral practices such as deportation, policing, legal neglect, and enacting harsher punishments in response (Jiwani 2006). This is a crucial point because it emphasizes how media and legal discourses work in concert to shape and influence one another.

Setting the Record Straight: Intervening in the Bad Apple Myth of Policing in Canada

Gendered anti-Black state violence is naturalized, in part, through the circulation of the "bad apple" myth of policing, which falsely holds that the problem of police violence is a matter of individual officers who have "gone rogue." Inherent in the myth of "bad apple" policing is the myth that policing as an institution

in Canada is not fundamentally racist. While Canadian policing is frequently positioned as a lesser evil in comparison to policing in the United States, the roots of criminalisation and policing in Canada are fundamentally anti-Black and settler-colonial.

In Canada, the police were established in the early 19th century using policing systems in France and Britain as models (Comack 2012). The North-West Mounted Police, which would later become the Royal Canadian Mounted Police (RCMP) was created in 1873 to control Indigenous uprisings and uphold and enforce the Jim Crow style segregation that followed the abolition of slavery in Canada (Walker 2012). Officers within the Northwest Mounted Police service were deployed to enforce genocidal laws, including the Indian Act, which imposed the residential school system among other colonially violent infrastructures. Mounties, as they are known, were the front-line of the white settler-colonial state, playing a key role in the abduction of Indigenous children from their homes to attend residential schools. Thus, the earliest function of policing in Canada was to facilitate colonial settlement through the enforcement of laws which dispossessed Indigenous peoples of land, culture, community and life.

Along with the facilitation of settler colonialism, anti-Black racism is a central reason for the creation of modern systems of policing in Canada (Choudry 2019). The history of modern incarceration, racial surveillance and institutional criminalization of Black people originates in enslavement (Maynard 2017; Brown 2015). After the formal abolition of slavery in the British colonies, Canada's carceral institutions took on the role of enacting violence to control and contain Black people. While Canada did not have legally entrenched segregation as in the United States, it remained a common practice that police officers enforced extra-legally. Free Black people were positioned as criminals and subjected to racial violence and surveillance from police and other law enforcement agents (Maynard 2017; Kitossa 2005). The association between Blackness and criminality and the characterization of Black communities as inherently threatening and dangerous was concretized in large part through policing. Part of the function of modern policing in Canada became the reinforcement of the racist association between Black people and criminality (Walker 2012). These discourses of Black criminality served to consolidate the nation-state of Canada by positioning Blackness as a threatening contaminant to the purity of the white settler nation-state (Walker 2012).

Part II: Discourses of Disavowal

Disappearing Acts: "Not a Race Issue"

In the media coverage of the case of Audrey Smith, the issue of racism as a substantive factor is scarcely mentioned. Where race is mentioned, it is done in passing and refers only to the "accusations" of racism from activists at the time, who argued that race was indeed the reason for Audrey Smith's treatment by the police (Hess 1993; Mascoll 1993). Outside these passing references, the issue of race is largely absent from the media and legal discourse surrounding Audrey Smith's case. Instead, the narratives of the case explicitly emphasize that the strip-search was unrelated to race. In an article entitled "Let's Avoid Isms in Audrey Smith's Fight for Dignity," written for the *Toronto Star*, Rosie DiManno (1993) writes that Audrey Smith is not served by activists and community members who argued that the strip-search was in fact a matter of anti-Black racism. In the article, DiManno pontificates about whether she believes these activist groups and their assertions that Black people are routinely subjected to violence at the hands of the police. DiManno closes the article by writing:

> It would behoove everyone to wait until the investigation is completed before they take to the streets to march in protest. But, if Smith's claims are adequately disproved, then we should all

> be outraged. That would make it not a black thing or a woman thing, but an everyperson thing. And all decent people should recoil from it. (para. 13, emphasis added)

DiManno's (1993) comments illustrate the erasure of anti-Black racism from the media discourse surrounding Audrey Smith's strip-search by dismissing the voices of activists who were demanding that the centrality of race be recognized in the case, and instead opining that Audrey Smith's case ought to be understood as an issue entirely unrelated to anti-Black racism. In this approach to understanding Audrey Smith's case, DiManno upholds the liberal view that all people are equal under the law, failing to recognize the significant differences in structural position between Black people and non-Black people in Canada.

Shortly before the inquiry into Audrey Smith's encounter with police, Mascoll (1994) published an article in the *Toronto Star* entitled "Racism by Police Unproved" that covers then Toronto police Chief William McCormick's angry reaction to an annual report released by the Canadian Human Rights Commission, which mentioned the strip-search of Audrey Smith. Mascoll (1994) writes, "An angry Metro police Chief William McCormack has blasted the suggestion by Canada's top human rights body that his officers were involved in racist behaviour during the past year" (para. 1). In the article, McCormack is quoted as stating that the Toronto Police were "not perfect" but that "it has not been proved that anyone on this force has committed any crimes of racism while engaged in any policing activity" (para. 2). McCormack called the report "high-handed," "totally inappropriate" and "lacking in facts" (para. 7). The article also notes that one Toronto Police officer at the time was found to be associated with the Heritage Front, a known Canadian white supremacist group (Mascoll 1994). McCormack goes on to say that he takes "exception with the condemnation of the force as far as being racist is concerned" (para. 7).

Lastly, in a news article published in the *Globe and Mail* shortly after the strip-search of Audrey Smith, Hess (1995) writes about the case and quotes an unnamed journalist who said that even though she had come to believe that Audrey Smith was telling the truth about the strip-search, she felt confident that the Toronto Police were "not a racist police force" (para. 19). The reason that Audrey Smith was denied justice, she felt, was that the lawyers and police officers did not personally know Audrey Smith. The journalist states, "She's a mother of five children. She's a decent, hard-working woman who earns most of the money in her household because her husband's [disabled]. She's an elder in her church" (para. 23).[4] For these reasons, the journalist recognizes that what was happening to Audrey Smith was unjust. However, in denying the role of anti-Black racism within the case, their comment continues to uphold the liberal discourse of Canada as a non-racist nation. Throughout the narratives of the case, anti-Blackness is entirely erased, upholding the Canadian national mythos of post-raciality and ignoring the structuring violence of anti-Blackness.

In the media and legal archive of the strip-search of Stacy Bonds, state actors including lawyers and police officers as well as reporters circulate and reinforce the narrative that the strip-search had nothing to do with race. After the violent strip-search, Stacy Bonds was charged with assault because, during the search, she kicked one of the officers who was trying to search her. The charge was dismissed by Judge Richard Lajoie who condemned the situation as a "travesty" and an "indignity" and said he wanted no role in it. Judge Lajoie agreed that Stacy Bonds' arrest was unlawful, however, race is never mentioned as part of his ruling. Judge Lajoie's silence about the role that race played in the arrest and subsequent strip-search of Stacy Bonds contributes to the erasure and denial of racism in the case.

As quoted in an *Ottawa Citizen* article, Stacy Bonds' lawyer, Matt Webber, agreed with Lajoie that race was not a factor in the case, stating that while "there was evidence of a lot of wrongdoing…there is no evidence that this case was motivated by racial profiling," thus continuing the outright denial of anti-Black racism in the case (Patterson 2010, para. 6). In another *Ottawa Citizen* article, Laucius (2010) writes

about the public outrage that the video footage of Stacy Bonds' strip-search created. Laucius writes about the many emails and phone calls that city councillors and public officials, including Police Service Board Chair Eli El-Chantiry, had received about the case. In the article, El-Chantiry stated:

> I can assure you, it was not a race issue. The conduct is the issue, not race…. This was the most disturbing thing for me, as chair and as an immigrant. We worked so hard to build relations with community, and I don't want to risk that. I hope this incident doesn't take us back. (para. 16)

In his comment, El-Chantiry implicitly disavows the centrality of race in the treatment of Stacy Bonds, leveraging his identity as an immigrant as evidence of shared experience with Stacy Bonds and as validation of his credibility to comment on the matter. He erases the violence of the strip-search, centering instead the impact that he imagines this to have on the reputation of the police. That, for El-Chantiry, is what threatens to harm "relations" with Black communities, not institutional anti-Blackness within policing or sexualized violence enacted on Black communities.

In another *Ottawa Citizen* article, police use-of-force training instructor Sgt. Nick Mitileneos is quoted as dismissing the assertion that Stacy Bonds' strip-search had to do with race and stated that from his perspective as a police trainer, "When you're actually going to use force because of the subject's behaviours, you don't have time to put in colours or race" (MacLeod 2010, para. 21). Mitileneos asserts that police officers do not have time to see race when they are making their decisions about how much force to use. This approach ultimately upholds liberal colour-evasive ideologies by implying that it is *seeing* race that is the problem rather than deeply embedded institutional anti-Blackness.[5] A further *Ottawa Citizen* article written by defence attorney James Morton (2010) describes Stacy Bonds' case and condemns it; Morton expresses his doubt that Stacy Bonds would have had a fair hearing because of a lack of police accountability. However, his condemnation of the strip-search does not once mention Stacy Bonds' Blackness. He writes, "It is all too easy to assume that complaints about police brutality are false claims made to avoid the consequences of criminal wrongdoing. However, the Stacy Bonds case shows a Canadian being mistreated by the police in the nation's capital" (para. 13). He notes that he himself has litigated in cases involving police violence and up until the Stacy Bonds case claims of racism "usually rung hollow to [him]." Confident of his assessment, Morton put it this way: "To be blunt, I did not believe them" (Morton 2010, para. 12).

The denial of racism takes place in several ways including the dehistoricized, depoliticized, and decontextualized ways in which racist occurrences are narrated. Often in public discourse, when anti-Black racism is brought up, it is swiftly denied and positioned as a historical issue that has little relevance in modern-day Canada. Where it is acknowledged, it is positioned as an individualised, flash-in-the-pan issue rather than a systemic one. Upholding the myth of "Canada the Good" can only take place through the erasure and disavowal of anti-Blackness as a constitutive form of domination. Beyond being denied, perspectives that do not support this fictionalized utopic vision of Canadian society are routinely silenced and eliminated.

Reversing Harm: Race as a Scarlet Letter

Another discursive strategy of disavowal used by the state and media in the strip-search cases discussed here is the reversal of harm. Through disavowal, the police officers who enact the violence of the strip-search are recast as injured subjects and the women and girls to whom the violence is done are recast as the source of harm. In the case of the Halifax Three, the three girls were strip-searched in a Halifax public school in 1995 by Cst. Carol Campbell-Waugh. In 2001, Campbell-Waugh sued the defence lawyers of the girls for defamation after the lawyers suggested in a press release that the girls were subjected to the strip-search because they were Black. Campbell-Waugh objected to both notions—that the strip-searches were racially motivated and that they should be considered strip-searches at all. Campbell-Waugh argued that the accu-

sations made against her were made with malice (Campbell v. Jones 2002). One of the statements that Campbell-Waugh sued the girls' lawyers over was a comment made by lawyer Burnley Jones in which he stated that the girls were prepared to testify that Campbell-Waugh had directed them to remove their clothes (Campbell v. Jones 2002). In the press conference, Jones stated that he thought Campbell-Waugh presumed the girls were powerless because the girls' school was in a predominantly Black and poor neighbourhood. He stated that he believed that the girls were strip-searched "because they were Black girls" and, as such, "the police officer and the school administrator felt they could do whatever they wanted to these two girls. And so, they strip-searched them" (Campbell v. Jones 2002, 4). Jones also stated that he thought that the connection between the searches and race were clear in that all three of the children subjected to the search were Black and that he did not believe that the same thing would have happened to three white, affluent children (Campbell v. Jones 2002). It was over these parts of the press release that Campbell-Waugh sued the lawyers for defamation.

Campbell-Waugh felt as though her rights had been violated because "there was no attempt whatsoever to temper the claim" that she had strip-searched these girls (Campbell v. Jones, 2002, 50). The Judge in the case agreed, stating that the term "strip search" was too "attention-grabbing and emotive" a label to describe what had occurred (Campbell v. Jones, 2002, 50). This is indicative of the ways in which Black girls cannot be imagined as victims of violence within the white settler imaginary. In an anti-Black regime, Black girls are stripped of any claim to innocence and, rather than being seen as children, Black girls are ascribed with deviance and seen as unworthy of care and protection (Latty 2022; Latty et al. 2019; Cox 2015). Further, the judge's comments reflect the disavowal of violence in the case.

Campbell-Waugh was initially successful in suing the lawyers for defamation and was awarded $240, 000 in damages, underscoring the ways in which the state recognizes and validates Campbell-Waugh's "suffering" while obscuring and denying anti-Blackness. One year later, the lawyers appealed and the original decision was overturned. Yet, in the appeal hearings, the presiding judge remained steadfast that "racist" was too harsh a term to describe Campbell-Waugh's actions. He stated:

> While these appellants might protest, they would have preferred that the media had expressed itself in terms of systemic racism, a person in the position of the respondent could not be expected to draw much comfort from the suggestion that it was not she but rather an amorphous "system" which had been singled out for opprobrium. It was hardly comforting to be thought of as a member of a group that practiced "systemic racism" as opposed to being an "overt" or a "direct" racist. The sting is no less sharp. (Campbell v. Jones 2002, 58)

He continued:

> There is arguably no more vile a label in today's parlance than to be described as a "racist." It constitutes one of the most egregious attacks upon character and reputation that one could imagine. It is a human stain and for this generation, a scarlet letter. (Campbell v. Jones 2002, 58)

These comments reveal the reversal of harm that takes place through the positioning of Campbell-Waugh as a victim and, conversely, through the positioning of the lawyers as the source of the harm because of their assertions about racism. Indeed, the word racist is a deeply felt insult in dominant white Canadian culture.

During the hearings related to the defamation lawsuit, Canadian Press newswire (2001) published an article entitled "Two Halifax Lawyers Accused of Defaming Cop over Strip-Search of Girls." The article summarizes the case and includes comments from the lawyers and parts of Campbell-Waugh's testimony. The article notes that in her testimony, Campbell-Waugh stated that the reason she did not read the girls their

legal rights or take them to the police station was that she was "trying to be nice," furthering the discursive practice of positioning her as a benevolent and innocent white subject (para. 6). The article goes on to quote Campbell-Waugh as stating that she "didn't think it was necessary… to have them waiting in a room in the police station" (para. 7). She states further that the situation has "tarnished the job she's dreamed of since childhood" (para. 8), continuing to emphasize the ways in which it is Campbell-Waugh that is ultimately the harmed subject in this encounter while leaving anti-Black racism unspoken and actively erased. The centralization of Campbell-Waugh's victimhood obscures the violence that the children experienced and upholds the anti-Black process of denying Black children access to the category of childhood. Within this discourse of disavowal, both racism and sexualized anti-Black violence become unspeakable.

Permissible Violence: A Constellation of Exigent Circumstances

The third discourse of disavowal within the strip-search cases occurs through the mobilisation of law to protect the legal ability of the police to conduct the strip-searches. Pieces of police policy and legislation are leveraged to justify the use of the strip-search, obscuring and compounding anti-Black violence. If, at times, legal discourses acknowledge that strip-searches can be violent, as is evident in the Supreme Court decision in Golden, those instances are rarely considered applicable to Black women and girls (R. v Golden 2001).[3] As Dayan (2011) crucially reminds us, "It is not an absence of law but an abundance of it that allows government to engage in seemingly illegal practices" (72). Drawing from Bentham's notion of "legal fiction," Dayan (2011) theorizes legal fiction as false tales weaved by the state and used to maintain and wield power to produce both quotidian and spectacular effects. Legal fictions are capable of making and unravelling personhood, leaving the subject unprotected and violable under the law. When people are transformed into non-people through the alchemy of the law, rights do not reach them and they are not protected by any constitution, charter, or policy (Williams 1991).

Through various legal maneuvers, the state positions harm done to Black people in police custody as mattering only when the harm is severe and visible enough, necessarily positioning some forms of supposedly less severe violence as acceptable (Dayan 2007). Falling within the boundaries of acceptable violence, forms of violence such as indefinite solitary confinement or, in this case, the strip-search become illegal and unconstitutional only if there is a demonstrable malicious intent or an extraordinary circumstance of substantial physical pain (Dayan 2007). Connecting the figure of the enslaved to the prisoner, Dayan writes, "Although killing a slave was murder, there were always loopholes. Degrees of injury were allowed" (87). If the violence did not result in death but caused significant physical harm or injury, it was not considered "cruel and unusual," but considered within the limits of what was permissible in the law. One can observe a similar phenomenon operating in the context of the strip-search.

The violence of the strip-search, as I will explain, is "defined away" using certain words and legal tactics. Through these mechanisms, the strip-search is recast as necessary violence. Even when strip-searching is deemed cruel, unusual, inhumane, or an unnecessary use of force, it can be deployed against Black women and girls with impunity and no real legal redress because Black women and girls are not seen as living within the boundaries of the human. Concepts such as "cruel and unusual punishment" and other concepts that protect the right of the state to enact "acceptable" forms of violence like the strip-search are inserted into law with Black people in mind, as Dayan (2007) argues. Legal concepts like this one work to install the prisoner as always already violable and punishable. Through the creation of laws, reports, and, at times, policy, the state and its subjects are protected in their license to enact violence onto Black women and girls' bodies. Indeed, this violence continues not despite the law but because of it (Dayan 2011). The law's violence is plainly visible in the strip-search cases.

In the case of Stacy Bonds, Sgt. Desjourdy, the officer who strip-searched her, was charged with sexual as-

sault but ultimately cleared. The Crown argued that the strip-search was unlawful and unjustified and amounted to sexual assault, stressing that Stacy Bonds had already been subjected to a roadside pat-down at the time of her arrest and that there was no reason for the invasive search besides to punish her and humiliate her (R. v. Desjourdy 2013). The Crown also argued that Desjourdy's actions contravened "most, if not all, of the guidelines set out in *Golden* and that [the] strip search was therefore unlawful" (para. 89). Stacy Bonds was strip-searched by four police officers who were all male, rather than officers of the same gender as stipulated in safeguard number four in *Golden*. In this rare instance where *Golden* is referenced to acknowledge the violence of a strip-search, the very terms of law to declare when a strip-search is permissible and when it is not provides the opportunity for the police to make their case for permissible violence. The officers who strip-searched Stacy Bonds held that "exigent circumstances" prevented them from arranging a female officer to conduct the strip-search: the cellblock was understaffed and the station was busy that morning with other prisoners waiting to be booked into cells (R. v. Desjourdy 2013).

Judge Lipson, the judge who presided over the hearings related to Desjourdy's sexual assault charge, concluded that based on the evidence there was what he called "a constellation of exigent circumstances" which justified Desjourdy's departure from the strip-search guidelines established in *Golden* (Desjourdy 2013, para. 100). In the Criminal Code of Canada, exigent circumstances are defined as "circumstances in which the police officer has reasonable grounds to suspect that entry (or other relevant action) is necessary to prevent imminent bodily harm or death to any person" (Criminal Code, S 529.3[2]). Judge Lipson gave several reasons why he felt that there were "exigent circumstances" that justified the strip-search. The first of these justifications was that Bonds was considered "volatile, uncooperative, belligerent and assaultive" (R. v Desjourdy 2013, para. 101); the second was that she had been arrested for being intoxicated in public; the third was that the police claim that Bonds was a risk to herself because of her "volatile" behaviour; and the fourth was that her upper body had yet to be searched for drugs or weapons (R. v. Desjourdy 2013, paras. 108-109). Judge Lipson goes on to note that it was:

> …a very busy Saturday morning in the cellblock. Police cars with new arrestees to be processed were waiting in the sally port of the station…. There was no female special constable immediately available to take over the search of S.B. Given all of these circumstances, there was in my view, a pressing and immediate need for the officers to complete the search of S.B. I accept that in these circumstances, shutting down the entire cellblock operation to await the arrival of another female officer to search S.B. was not a viable option. (R. v. Desjourdy 2013, para. 105)

Judge Lipson further agreed with the defense that Desjourdy's force was neither excessive nor abusive because, in conducting the strip-search, Desjourdy "never physically touched S.B" and he "used safety scissors" which was, according to Judge Lipson, "the least intrusive method available to complete the search of S.B, given the exigent circumstances" (R. v. Desjourdy 2013, para. 107). Judge Lipson concluded:

> On all of the evidence, I am satisfied that [Sgt. Desjourdy] cut off S.B.'s top and bra for a valid law enforcement objective which was to complete a reasonably necessary search of S.B. for weapons and contraband…. It was reasonable and necessary for Sgt. Desjourdy to conduct the search of S.B. in the manner that he did because of *the presence of exigent circumstances*…." (R. v. Desjourdy 2013, para. 108, emphasis added)

In this excerpt, Judge Lipson affirms Desjourdy's entitlement to violently strip-search Stacy Bonds because of the so-called exigent circumstances that arose, which are themselves rooted in anti-Blackness.

To fully explain the invocation of what he calls the "doctrine of exigent circumstances," Judge Lipson cites an earlier legal precedent in which it was stated that:

> …whether exigent circumstances are invoked to search for evidence or to protect the public or for officer safety, it is the nature of exigent circumstances that makes some less intrusive investigatory procedure insufficient. By their nature, exigent circumstances are extraordinary and should be involved to justify the violation of a person's privacy only when necessary." (R. v. Desjourdy 2013, para. 62)

The citation goes on:

> …exigent circumstances arise usually where immediate action is required for the safety of the police or to secure and protect evidence of a crime. (R. v, Desjourdy 2013, para. 62-63)

Judge Lipson also cites the presence of exigent circumstances in *Golden* where it is noted that it may be necessary to conduct a "legal" strip-search outside a police station "where there is a demonstrated necessity and urgency to search for weapons or objects which could then be used to threaten the safety of the accused, the arresting officers or other individuals" (as cited in R. v. Desjourdy 2013, para. 61). It begs the question—given that Black women and girls are assumed to be inherently criminal and threatening to white settler subjectivity—is an encounter with a Black woman or girl's body always already considered to be an exigent circumstance? The discourse of "exigent circumstances" is one instance in which one can witness, in real-time, the deployment of a legal narrative that upholds the state's ability to strip-search Black women and girls with impunity (Dayan 2011). When the encounter involves the Black feminine body, there seems to be no limit to the violence that can be done by the state.

In the hearings related to the sexual assault charge against Desjourdy, Judge Lipson also cites Section 25 of the Criminal Code of Canada in supporting his ruling that Desjourdy was justified in his actions. Section 25 of the Criminal Code states that a "peace officer or public officer…is, if he acts on reasonable grounds, justified in doing what he is required to do and in using as much force as is necessary for that purpose" (Criminal Code of Canada, 42). In the subsequent sections, the Criminal Code states that police officers are not protected in using force that is "intended or is likely to cause death or grievous bodily harm *unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm*" (Criminal Code, 42, emphasis added). In other words, an officer must reasonably believe that force is needed to protect themselves or the public. Given that Black women and girls are always assumed to be dangerous, violence done to Black women and girls will always, under the conditions of anti-Blackness, be considered necessary to protect others from death or harm. Indeed, in its ritualistic repetition of phrases like "exigent circumstances" and "reasonable grounds," the state positions itself as protecting the rights of some while it justifies taking them away from others.

Conclusion: Toward Abolition

This article has examined how disavowal operates within the legal and media archives of strip-searching and how these narratives function to uphold liberal discourses of reform. I began this article by asking: What kinds of knowledges are produced about Black women and girls in the state, legal, and media discourses surrounding the strip search? How does the strip search of Black women and girls become routinized and everyday? The discourses of disavowal present in the archives of the cases are mobilised in many ways throughout the discourses of the cases and reflect the way in which the Canadian state is haunted by the ghosts of anti-Blackness. At times, anti-Blackness is disavowed outright as irrelevant to the strip-search cases. In other moments, one can observe the ways in which the state and media discourses recast the police officers as injured and victimised and construct the Black women and girls who have experienced the violence of the strip-search as the source of the harm. Too often, media and state narratives con-

spire to use a fictional story of policing that does not account for the systemic and institutional racism that is entrenched in the institution as a strategy to generate public trust. In this way, a liberal discourse of reform is upheld and gendered anti-Black violence is obscured. Principally, the state positions itself as opposed to the violence of the strip-search and, at the same time, it leaves the strip-searching of Black girls and women uninterrogated and even justifiable under the law.

Since the carceral system is not isolated or discreet, a project of abolition aimed to dismantle it must also be necessarily expansive and diffuse. Activists and advocates have long been fighting for the abolition of not just the police but the carceral system in its totality and for justice beyond the juridical sense. Conceptualizations of what abolition is have developed over the decades in activist and academic circles. By adopting the term "abolition," activists intentionally draw parallels between the dismantling the prison industrial complex and the abolition of slavery (James 2005). In this way, abolitionist praxis is shaped by "the historical memory of slavery and rebellion" (Sudbury 2009, 8).

I close by calling for the abolition of the carceral system. One must not accept the legitimacy of carceral systems nor the legitimacy of its institutions and agents. Over the last several decades, there has been tension between those who argue for reform and those who argue for abolition. Scholars, activists, and advocates who call for reform believe that it is possible to redress the gratuitous violence and abuse that has taken place within carceral systems without dismantling the system in its totality. They often argue for reduced sentences, an end to police brutality but not necessarily an end to policing, and decreased incarceration rather than an end to imprisonment. A reformist position does not and cannot address structural racism in policing. This approach leaves the logics that produce this violence intact and fails to understand these regimes of violence as not only systemic but constitutive of modern states. There is no reforming a system that is inherently and irremediably violent and designed to uphold anti-Blackness, sexism, transphobia, homophobia, ableism, classism, settler colonialism, and other forms of oppression, no matter what (re)form it takes.

Endnotes

1. While this project focuses on the specificity of gendered anti-Blackness, I refer to Canada as a white settler colonial nation-state to intervene in the erasure of settler colonialism as a simultaneously operating system of domination constitutive of Canada, the nation-state, and anti-Blackness. I draw from critical race scholars and scholars of anti-Blackness who build on a Foucauldian analysis to assert that the state is not an autonomous entity in and of itself, nor is it reducible merely to government institutions, agencies, and bureaucracies (Goldberg 2002; Thobani 2007; Da Silva 2007). Instead, the state can be understood as "a political force fashioning and fashioned by economic, legal, and culture forces (forces of production, of sociolegality, and of cultural reproduction)" (Goldberg 2002, 109).

2. The category of state actor might include police officers, social workers, teachers, nurses, doctors, soldiers, administrators, politicians, and other subjects who are responsible for carrying out and enforcing the will of the state. However, under violent white supremacist colonial regimes, seemingly benign and innocuous spaces and people can become instrumental in carrying out the violence of the state. See Pugliese (2009) for a careful articulation of the ways in which seemingly mundane spaces such as hotel rooms, shipping containers, and transport vehicles such as planes, ships, and trucks can also become sites of necropolitical state power.

3. The landmark case of R v. Golden (*Golden*) in 2001, the Supreme Court of Canada declared strip-searches to be inherently degrading and dehumanizing and stressed the need for "reasonable and probable

grounds" to carry out a search. The case was brought before the Supreme Court of Canada after Ian Golden, a Black man, was subjected to multiple strip-searches at a restaurant in downtown Toronto. In *Golden*, presiding Justices Iacobucci and Arbour acknowledged that strip-searches are disproportionately used against racialized people and held that a "strip search will always be unreasonable if it is carried out abusively or for the purpose of humiliating or punishing the arrestee" (Tanovich, 2011, 142).

4. I have used the word "disabled" instead of the word that appears in the original quote, which is a slur used to describe people with disabilities.

5. See Annamma, Jackson, and Morrison (2016) who critique the concept of colour-blindness using a Dis/ability Critical Race Theory (DisCrit) framework and offer colour-evasiveness as an alternative conceptualization.

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