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Incoded Counter-Conduct: What the Incarcerated Can Teach Us About Resisting Mass Surveillance

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Abstract

This paper reviews penal history in order to consider forms of resistance to mass surveillance. Because experiences of surveillance are endemic to incarcerated life, identifying tactics of protest among these populations provides valuable insights for potential forms of counter-conduct in other circumstances of ubiquitous monitoring. We introduce the term incodification as a means of describing conditions of continuous surveillance ingrained into infrastructures of everyday life, even as these conditions give rise to tactics of resistance. We focus on three forms of protest: hunger strikes, alternate communication networks and viral dance videos, drawing on Foucault's theory of askesis in order to develop our understanding of incodification. Our objective in introducing this term, and with our analysis as a whole, is to provoke and promote theoretical and activist projects that both address and subvert infrastructures of incodification.

Keywords

surveillance, technological activism, prisons, social justice

Disciplines

Communication | Social and Behavioral Sciences

This paper reviews penal history in order to consider forms of resistance to mass surveillance. Because experiences of surveillance are endemic to incarcerated life, identifying tactics of protest among these populations provides valuable insights for potential forms of counter-conduct in other circumstances of ubiquitous monitoring. We introduce the term incodification as a means of describing conditions of continuous surveillance ingrained into infrastructures of everyday life, even as these conditions give rise to tactics of resistance. We focus on three forms of protest: hunger strikes, alternate communication networks and viral dance videos, drawing on Foucault's theory of askesis in order to develop our understanding of incodification. Our objective in introducing this term, and with our analysis as a whole, is to provoke and promote theoretical and activist projects that both address and subvert infrastructures of incodification.

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Introduction

Mass surveillance has now become such a ubiquitous dimension of our social ecology that we can understand it as a requisite, and minimally negotiable, aspect of daily life in post-industrial society. This surveillance spans, and in many ways blurs, the lines between public and private, as well as physical and virtual. Streets, schools and places of business are increasingly monitored by both commercial and governmental audiovisual devices (Kitchin and Dodge, 2011; Taylor, 2010), epitomized by London's "ring of steel" (a nickname for the city's pervasive closed circuit television monitoring system, see Coaffee, 2004) and emulated in cities throughout the world (Fussey and Coaffee, 2012). Private homes are rapidly filling with networked listening, watching and data collection devices, from general purpose mobile phones and tablets to specialized surveillance appliances like XBOX Kinect and Amazon Echo to "smart home" devices and "internet-of-things" sensors like Google's Nest thermostat (Goodman, 2014). And even ostensibly private, interpersonal communications like e-mail messages, texts and phone conversations are collected, logged and analyzed by an array of interests, from direct marketers to counterterrorism agencies (Kadidal, 2014; Stinneford, 2014). The data we "leak" via this fragmented web of devices, sensors, bots and dragnets are often reassembled by third-party databases without our knowledge or explicit consent, and subject to further abuse by malicious actors (Cobb and Lee, 2014).

While surveillance of some kind has always been a dimension of social life in complex society, from whispering neighbors (Locke, 2010) to secret police (Koehler, 1999), the massive growth in data collection, ballooning power and sophistication of data analysis, and increasingly authoritarian deployment of data in our physical and mediated environments has contributed to a new set of social parameters that differs qualitatively from earlier eras. In its totalizing power, its integration into socio-technical infrastructures and its resulting inescapability, we see this new surveillance infrastructure as metaphorically akin to institutionalized incarceration.

The term "incarceration" effectively describes not only the direct physical experience of imprisonment but also the array of social conditions that derive from this experience; scholars like Brown (2009) and Goffman (2014) have published compelling accounts of these conditions, requiring us to understand incarceration as more than just the relationship between a body and a building, but rather between a body politic and the institutions that govern it. In other words, for groups of people who are continually held in suspicion by the police, such as young men of color, incarceration encompasses not only jail time and prison sentences, but an entire set of relationships between oppressed people and the legal system that extends far beyond prison walls. We aim to make an analogous argument for mass surveillance by introducing the term "incodification."

To be incoded is to live within a constellation of social and technological constraints that makes participation via digital networks the *sine qua non* of both civic and intimate relations, yet hobbles those networks with an architecture that permits,

and even presumes, ubiquitous surveillance [1] on behalf of unaccountable third parties. We choose the term incodification as a means of consciously evoking the literal and figurative *coding* of power into architectures of communication; if imprisoning the body within a closed space (*carcer* in Latin) is the etymological and institutional root of incarceration, then confining the subject within a web of legal, bureaucratic and digital codes serves the same function in incodification. Although the term refers to a disquieting set of circumstances, we use it in hopes that naming these conditions will serve as a first step toward countering them, by developing a language of dissent and protocols of resistance.

It is important to state at the outset that there is a real risk of conflation (and moreover, of blithe indifference) in drawing a comparison between people who are incarcerated and people whose information and communication technologies (ICTs) are being monitored. We recognize that the scope of control is very different when monitoring refers not only to communications but also to food, sleep and physical proximity to others. Rather than trying to draw a direct comparison between incodification and incarceration, we intend our analysis as a strategic articulation of how modes of counter-conduct that emerge within prisons can point towards tools of dissent in the context of technological surveillance. Following Murphy (2012), we use the term counter-conduct to refer to practices of protest: “resistance has acquired a romantic moral valence in Left academic work as a self-evidently desirable set of actions antagonistic to hegemony. Counter-conduct, in contrast, invites a historicization that highlights modes of undoing, remaking and antagonism that are immanent with and animated by hegemonic formations” [2]. In seeking instruction from instances of prison protest, we do not claim equivalence between incodification and incarceration, but we do see possibilities for linking counter-conduct in one set of surveilled and controlled conditions to counter-conduct in another. Moreover, the forms of counter-conduct that we identify from penal history may or may not be understood as explicit responses to surveillance; we are interested in practices that emerge under conditions of surveillance, born of the need to preserve dignity, privacy, community and agency.

Our approach is to provide some examples from penal history, making connections to critical theory in the context of power, communication and subjectivity. Echoing Appadurai’s (2001) work on infrastructure of sewage as a point of intervention for class politics, we conceptualize the socio-technical practices of surveilled prisoners as a “node at which concerns of the human body, dignity and technology meet” [3]. In this article, we identify three such nodes, drawn from the praxis of incarcerated communities: hunger strikes, alternative communication networks and choreographed performances of absurdity. We divide analysis of each technology into three parts: a brief introduction to its penal history, a rearticulation in terms of critical theory (particularly, although not exclusively, Foucault’s (1985; Bernauer and Rasmussen, 1988) construct of *askesis*), and suggestions for how these forms of counter-conduct can be deployed in online activism. Across these cases, we seek to identify acts of resistance among surveilled and dispossessed groups, and to offer potential modes of counter-conduct for coalitional resistance to incodification.

Key terms and concepts

In considering a critical framing for incodified counter-conduct, perhaps the most immediate association is to Foucault’s (1977) work on the panopticon. Yet as other theorists have recently noted, these models of surveillance and power may not be the most useful for thinking through modes of resistance, especially in contemporary networked society (Bossewitch and Sinnreich, 2013; Lovink, 2013; Lyon, 2006). Instead, we turn to Foucault’s work on *askesis* as a model for conceptualizing resistance in terms of collective action and political dialogue. Foucault (1985) described *askesis* as a form of “training” [4], “an exercise of self upon self by which one tries to work out, to transform one’s self and to attain a certain mode of being” [5]. *Askesis* draws together the physical and the ethical, requiring acts of intentionality that “attend effectively to the self, and to exercise and transform oneself” [6]. Highly relevant to our analysis is the conceptualization of *askesis* as “political technologies of individuals” that can operationalize a set of political objectives [7]. A pivotal component of *askesis* is that it operates on levels of both an individual and her surrounding community: an individual’s practices come to shape the behaviors of people around her, becoming emblematic of her community’s ethics. Foucault was ultimately interested in *askesis* as a way of theorizing how best to live, and how practices of self-maintenance act as a kind of positive communication-cum-contagion within a community. The political potential of *askesis* has been assessed as a framework for promoting sustainable consumption practices (Doran, 2011) as well as problematizing governmentality *vis-à-vis* conspiracy panics (Bratich, 2003). Our analysis frames incarcerated counter-conduct as ascetic tactics that have the potential to contest mass surveillance. If incodification describes a set of conditions in which subjectivity is controlled via surveillance and monitoring, *askesis* refers to a set of coordinated, responsive tactics [8] of asserting agency.

Our objective in this paper is to identify resistant tactics, drawn from the praxis of incarcerated communities, and then reframe them to consider their efficacy under conditions of mass surveillance beyond prison walls. We begin with a discussion of hunger strikes, as a demand for dialogue that leverages the collective display of refusal. The second tactic in our analysis relates to alternative communication networks, exemplified by four methods of covert information transmission. Finally, we consider the phenomenon of viral dance videos choreographed in prison, framed both through a discussion of *askesis* and Rancière’s (2013) work on aesthetic politics. We do not aim to identify a comprehensive taxonomy of resistance to incarceration and incodification, nor are we arguing that *every* form of resistance among the incarcerated must have its analog among the incodified. We selected these specific tactics because they reflect a range of embodied, mediated and ritualized responses to infrastructural control, allowing for an exploratory survey of incarceration, incodification and counter-conduct.

Hunger strikes: The radicalized body as a tool of dialogue

Under circumstances of constant surveillance and highly structured routine, hunger strikes offer a deeply disruptive form of protest. Publicized acts of self-deprivation have a rich and diverse history, ranging from acts of religious devotion (MacKendrick, 1999) to performances of carnivalesque entertainment (Blyn, 2013). Among these variant forms of denying oneself food, staging protest through a public refusal of nourishment can be traced back at least to seventeenth century Ireland, where an aggrieved person would station himself immediately outside a neighbor's house and refuse to move or eat until adequately recompensed [9]. As an overtly political (and, crucially, collective) act, Ziarek (2008) argued that British suffragettes were the first to link the practice to an abstract discourse of human rights [10], in agreement with Passmore's (2009) claim that hunger strikes took on a particular political valence in the twentieth century, especially among prisoners. As a whole, hunger strikes can be defined as "a means of conducting political protest and communicating distress" [11], through the self-deprivation of food, with two further dimensions: collectivity and catalyzing dialogue.

Contemporary examples of prison hunger strikes include members of the Russian feminist punk band Pussy Riot (Loiko, 2013); years-long protests among Guantanamo inmates (Harris, *et al.*, 2013; Wallace-Wells, 2014); and a massive hunger strike in California's prison system in the summer of 2013 (St. John, 2013), which at its peak involved approximately two thirds of California's prison population. Hunger strikes also have a rich history outside prison walls, from Evo Morales, the president of Bolivia, going on hunger strike against his own congress and sustaining himself on coca leaves (Garcia, 2009) to the pacifist resistance tactics of Mahatma Gandhi (Ziarek, 2008). Yet hunger strikes take on a particular valence in prison, where access to tools of expression are often highly limited, monitoring of daily behavior is constant and the provision of food is the responsibility of the institution targeted by protest. Scholarly attention to prison hunger strikes has addressed the tactic's legality (*e.g.*, Wei and Brendel, 2010), its efficacy as a political act (Passmore, 2009; Dingley and Mollica, 2007) and its role as a means of demanding dialogue under conditions of extreme and near-totalizing disempowerment (Ziarek, 2008). We focus on these latter two sets of questions, using the construct of askesis to think about how hunger strikes function as a transfer of political ideology from self to collective, and also between subjects and institutions.

Hunger strikes and askesis

From its earliest historical origins, hunger strikes have functioned through rupturing expected, routinized behavior, drastically altering even the most basic norms of social interaction and bodily needs. We read hunger strikes as a radical form of askesis, in which political urgency is mapped quite literally onto the body as an insistence on dialogue when other means of communication have been foreclosed. Askesis frames hunger strikes as a form of communication that functions along two axes: from individual to collective action, and from a subject position to an institution. Regarding the former, askesis offers a model of how protest ideology circulates socially and transitions from an individual to a collective practice. Hunger strikes require collective action to capture public support outside prison walls, often leading hunger strike leaders to employ a range of measures, from encouragement to cajoling to threats, in order to ensure continued group participation (Passmore, 2009; Wallace-Wells, 2014). In terms of a movement from individual subject position to institution, the very telos of hunger strikes centers on a demand for dialogue, the connection between a subject and the structures of power surrounding her.

Hunger strikes and incodification

What can we learn from prison hunger strikes in the context of incodification? In thinking about what an online hunger strike might look like, we argue that such protests would function through the collective display of refusal, and the production of dialogue that would otherwise be unlikely or impossible. As an example, on 18 January 2012, activists staged a day-long protest against U.S. legislative bills SOPA and PIPA (Electronic Freedom Foundation, 2012). An estimated 8,000 Web sites, including Wikipedia and Google, participated in an Internet blackout, combined with a coordinated online education and advocacy campaign. This exercise in political protest contained several elements similar to hunger strikes: public acts of self-denial combined with exhortations for others to follow suit. We connect these examples of reshaping daily socio-technical practices to recent work on limiting or terminating participation on social network sites (*e.g.*, Brubaker, *et al.*, 2014; Portwood-Stacer, 2013). Across these studies, people who leave social media sites note the larger social consequences of their departure, underscoring our arguments that sociotechnical (dis)engagement takes on a dimension of askesis when one user leaving a network compels others to reconsider their own relationships to that technology.

In addition to coordinated political acts like blackouts, there are examples of smaller-scale protest through (non)consumption, such as decisions to unplug or "detox" (Wayne, 2014). These tactics echo the Foucauldian concern of embodiment and practices of self, where deliberately reshaping daily behaviors produces an ethic of engaging with one's surroundings, both socially and technologically. Although less overtly political than page blackouts, detoxing and unplugging reflect an increasing sense of unease with continuous technological interaction. In the context of continuous technological surveillance, practices of detoxing, unplugging and blacking out take on an ascetic dimension, in that refusal

rebukes established patterns of consumption, such that absence becomes a form of public critique. As noted earlier, we do not mean to suggest that the physical and psychological toll of hunger strikes can be equated with the reduction of engaging with online content, and we are wary of doing a disservice to people who leverage hunger strikes as desperate tools of intervention. Without making claims of equivalence, however, we do see the radical potential of hunger strikes as a means of increasing agency in the consumption and management of information in everyday life.

Alternative communication networks

While hunger strikes offer an effective method of collectively asserting autonomy and visibility, other technologies of resistance have emerged to accomplish more immediate, tactical concerns, such as communicating privately under the ever-watchful eyes of surveillants. In some cases, this challenge arises from the need to organize and coordinate actions internally, absent officially-sanctioned communication channels. In others, where sanctioned (but censored and surveilled) communication channels do exist, the challenge is to move contraband information and materials secretly through these channels, or to build parallel, unsanctioned (but secure) information networks. Finally, in addition to the challenge of internal communications within prison populations, there is frequently a need to develop private communication conduits with the “outside world,” either for the purposes of drawing attention to inmates’ individual needs or to coordinate broader political action. While this set of concerns might seem secondary to the more pressing matters of prisoners’ physical and psychological safety, it is in fact a necessary prerequisite to both; as Passmore (2009) argued in his discussion of Red Army Faction prisoners in late Cold War-era Germany, “behind the debate which framed the harsh initial prison conditions in terms of either ‘security’ or ‘torture’ raged a battle for the control over the flow of information” [12].

In this section, we identify four tactics of resistance employed historically as alternative communication networks within prison populations: argot, tap codes, encryption and smuggling. We acknowledge that this list is far from comprehensive, and each warrants at least an article-length discussion on its own, but for present purposes, these examples offer provocative implications for resistance to mass surveillance among the broader population. The first tactic we discuss is *argot*, a secret lexicon employed by prisoners to communicate in the presence of guards and other surveillants without being understood. Based on his own experience as a political prisoner in 1980s Poland, Kaminski (2004) described how the newly incarcerated were indoctrinated into the intricacies of the language during “late night courses” taught by a “rotating team of instructors” [13]. In addition to serving as a platform for secure communications, argot can perform vital secondary functions, as “an important symbol of group membership among prison inmates” [14], not only differentiating insiders from outsiders, but establishing tacit hierarchical and structural relationships between communicants. In situations where ethnic or national divides distinguish prisoners from guards, an exogenous language or dialect can serve as a *de facto* argot serving all of these functions. One such historical example is Irish republican prisoners in British-controlled Belfast during the late 1970s (O’Hearn, 2009).

The second communication tactic is *tap code* (sometimes called “knock code”), in which prisoners tap on walls or pipes to communicate words and phrases, typically using a given number of taps to transmit a corresponding letter of the alphabet. These codes most often employ a technique similar to a “Polybius square,” an ancient matrix of letters in which each character can be signified by two integers. Documented cases of prisoners using tap codes to communicate are numerous, ranging from nineteenth century Russian political prisoners to American prisoners of war in Vietnam (Blackwood, 2009). One of the benefits of this code is its relative durability. As McGrath (1975) described of his own time as a prisoner of war, “the Vietnamese were able to extract, by torture, every detail of the code ... but they never succeeded in stopping us completely from communicating” [15].

The third platform for resistant communication is *textual encryption*, a range of methods by which prisoners’ written communications are secreted via a code substituting one letter for another, or by replacing letters with symbols. As Singh (2000) chronicled exhaustively, textual encryption has been used in a variety of contexts beyond the prison population, from military to financial communication networks, for millennia. One example of encryption used in a penal environment is the pigpen cipher (sometimes called the Freemason cipher), which was used by Union soldiers imprisoned by Confederates during the American Civil War (Jones, 2013). Another, more complex code employed by British prisoner of war John Pryor during World War II recently made headlines when it was finally decrypted (after seven decades) by a team of mathematicians, historians and geographers (Enoch, 2013).

The fourth technology, often employed in conjunction with the third, is *smuggling*. Although this practice applies to a range of contraband, from weapons to drugs to cigarettes, it has also been used fruitfully to transmit information. Smuggling techniques run the gamut from ramshackle to high tech. For intra-prison communications, O’Hearn (2009) described the technique of “‘shooting buttons’ with strings and messages attached to them across corridors under the cell doors” [16]. For extramural communications, chroniclers of prison life have described papers hidden in “specially prepared” shoes [17], carried in the anal cavities of couriers (O’Hearn, 2009), and camouflaged as “defence mail” to be transmitted by prisoners’ lawyers [18]. More recently, mobile phones have been smuggled in increasingly large numbers, hidden in light fixtures, body cavities, bibles and food jars, thrown over walls, and even flown in via “carrier pigeons, kites and remote-controlled model helicopters” [19].

Askesis and alternate communication networks

Alternative communication networks, while primarily tactical in nature, also fulfill an asketic role for incarcerated populations. The act of learning an argot or tap code often represents a rite of passage for an individual inmate, while teaching and using such codes constitute a process of coordinated resistance. As Kaminski (2003), Einat and Wall (2007) and others have made clear, adopting a code is as much a proactive bid for group identity as it is a reactive technique of counter-surveillance. In this way, the process of learning and using the code becomes an act of askesis, in which individual models of behavior are adopted collectively and deliberately, even in the face of architecture specifically designed to inhibit coordinated counter-conduct. This dynamic also exists outside of prison walls, in subaltern groups from the “pattin’ juba” codes of African slaves in the antebellum American south (Sullivan, 2001) to the slang of Los Angeles Pachuco in the 1940s (Ramírez, 2006) and urban Swedish adolescents in the twenty-first century (Milani and Jonsson, 2012). Asketic themes identified earlier — an insistence on dialogue and collective tactics — are demonstrated quite literally in argot and tap code, which both facilitate and convene collective practices of dialogue.

Encryption and smuggling can be understood asketically as well. In both cases, something is being hidden in plain sight — a strategic appropriation and cultural weaponization of the crippling social invisibility often accorded to disenfranchised populations. While it may seem contradictory to suggest that a subjugated group may be simultaneously invisible and surveilled, this contradiction is in fact an integral dimension of subjugated subjectivity. In the case of smuggling, the body itself may serve as the vessel for contraband communications, which adds another dimension of askesis: A body that functions as a secret-keeper is a body that declares itself to be (at least partially) independent of hegemonic control. Moreover, such a body becomes emblematic of collective counter-conduct, another connection to Foucault’s conceptualization of askesis.

Incodification and communication networks

The communication techniques adopted by incarcerated populations offer provocative suggestions for the broader population to counter incodification. Argot has its analog in digital media dialects, ranging from 1990s “leet” and “geek-speak” to more contemporary “texting language”, as well as “memetic slang” such as doge speak and LOLcat. In her work on the hacker group Anonymous, Coleman (2014) referred to dark Internet humor (“lulz”) as argot, arguing that “since argot is so opaque and particular, it functions to enact secrecy or, at minimum, erect some very stiff social boundaries” [20]. Memetic slang has been used for explicitly resistant purposes in some notable cases, such as the “grass mud horse,” a Chinese meme made popular in 2009, in which absurd mythical creatures with names that sound phonetically like curse words are used as a form of critique and resistance to widespread government censorship (Meng, 2011; Wang, 2012). This is the clearest example of how digital dialects can take on a political dimension, operating as an activist tool of communication.

While there is no direct digital equivalent of the tap code, its two most salient features hold promise for alternative networked communications. First, tap codes make use of existing infrastructure (*e.g.*, walls, pipes), repurposing those technologies to transmit messages directly between inmates. Second, tap codes are surveillable, in that prison guards can intercept and even decode messages, but not censorable, in that it would be impossible to stop transmissions without sequestering every inmate or destroying crucial infrastructure. In both respects, the digital communications platform that bears the greatest similarity to the tap code is the wireless mesh network (Reynolds, *et al.*, 2011; Sinnreich, *et al.*, 2011). In a typical mesh scenario, such as Comotion or FireChat, wireless network devices like mobile phones and routers are repurposed to connect directly to one another without an intermediary. When hundreds or thousands of such devices are connected via these individual peer-to-peer connections, a larger network emerges, capable of transmitting messages across large distances and among many users without ever passing through the Internet backbone or a mobile data tower. As with tap codes, it is easy for surveillants to intercept messages on a mesh network, and given the decryption key, to decode those messages. Yet mesh networks also share the code’s durability; short of putting a given communicant in solitary confinement without access to a mobile device or jamming wireless signals on a given frequency across a broad area, there is little a surveillant can do to prevent people en masse from establishing or using a mesh network.

Of all the tactics discussed in this section, encrypted prison communications have perhaps the most obvious online counterpart, namely encrypted digital communications. Encryption on the Internet is so prevalent that it often goes unnoticed or unappreciated by the end user, as when a consumer uses transport layer security (TLS) or a secure socket layer (SSL) while shopping on a retail Web site like Amazon.com. These technologies gained a greater level of visibility after whistleblower Edward Snowden revealed that government agencies paid computer security companies to engineer “back door” flaws in their algorithms, allowing organizations like the NSA to surveil encrypted communications (Menn, 2013), followed by well-publicized information security breaches like the “heartbleed” bug in TLS (Felten and Kroll, 2014) and the FBI hacking of a suspected terrorist’s iPhone (Abdollah, 2016). Since then, there has been growing public commentary on and adoption of voluntary peer-to-peer encryption protocols, such as the GNU Privacy Guard (GPG), and encryption-based communications platforms like Tor, WhatsApp and Telegram.

The final tactic, smuggling, has many applications in the context of networked digital communications. One is the use of virtual private networks (VPNs) and proxy servers, an increasingly popular practice in which Internet traffic is routed through a remote server on its way from a site or service to an end user, effectively concealing the user’s identity and obscuring her Internet habits. Another technique is steganography, a tactic of hiding a piece of encrypted digital information inside another digital file — for instance, hiding a spreadsheet inside of a picture of a cat posted to a Web page. In these and

other cases, information can be said to be “smuggled” in that either digital files themselves or traffic on digital communication networks is transformed to look like something innocuous. Beyond thinking of smuggling in strictly technical terms, we can also point to more socio-cultural approaches. For example, in Boyd and Marwick’s (2011) analysis of teens’ privacy practices, the authors use the term “steganography” to refer to the use of slang and cultural references (like song titles or movie quotes) as a means of directing certain portions of their online content to a target subsection of their peer group. Boyd and Marwick interpreted these practices as a means of coping with context collapse, yet steganography can also be read as a method of managing continuous surveillance, targeting messages exclusively to intended recipients regardless of the assumed presence of others.

All of these techniques are already in use among dissidents, cyberlibertarians and other proponents of free speech on digital networks [21], and general awareness of these tactics has grown visibly in recent years. Yet not all use is strictly instrumental; just as with alternative communication networks in prison settings, there is an ascetic dimension to the use of these forms of counter-conduct. By using GPG to sign and/or encrypt e-mail messages or by accessing the Web via Tor, even a communicant with “nothing to hide” is performing privacy as a positive social value, and signaling affiliation with others who share this value; in the case of many privacy protocols, such performances also serve the instrumental purpose of strengthening network security through increased numbers. This performativity extends beyond the adoption of technology to the more symbolic decoration of networked devices. For instance, the Electronic Frontier Foundation (EFF), an advocacy group that promotes civil liberties in cyberspace, sells stickers as a fundraising tool bearing the legend “I do not consent to the search of this device” (see Figure 2). Clearly, few who adorn their devices with such slogans can actually expect law enforcement or other surveillants to respect the message; the statement is rhetorical in nature and primarily serves the purpose of signaling group affiliation and promoting awareness of civil liberties. Quotidian practices of interacting with technology can thus take on a rhetorical dimension that instructs others with similar values on behaviors that reflect those values.

Disruptive displays of art

As our final example, we consider the phenomenon of viral dance videos choreographed in prison, which we connect both to askesis and Rancière’s (2013) work on aesthetic politics. By viral dance videos, we refer to a contemporary media phenomenon of online videos depicting highly choreographed dances performed by prisoners, the most famous example of which comes from the Cebu Provincial Detention and Rehabilitation Center (CPDRC) in the Philippines, where inmate performances have included Michael Jackson’s “Thriller”, a Queen medley and Psy’s “Gangnam Style.” The CPDRC’s choreographed dances began in 2007 as a dance therapy rehabilitation program [22], the brainchild of then-warden Byron Garcia. These videos have been theorized in terms of their implications for social justice in penal contexts (Mangaoang, 2013) and in light of cultural globalization and hegemony (Perillo, 2011). We read these media artifacts for the political work they are capable of instigating through convening an online audience. Viral dance videos contain multiple layers of absurdity: the stark contrast of foreign pop songs in a Filipino prison; the paradox of a spectacle that offers a rare glimpse inside a prison yet nonetheless reveals little because it is so clearly staged; the contradiction between dance as pleasure and play versus circumstances of institutional coercion. As such, we view prison dance videos as profoundly contradictory, at once highly mediated (produced explicitly for purposes of redistribution) and ultimately illegible. It is precisely this inscrutability that we see as potentially disruptive in the context of incodification.

Physical choreography that is dismissed as purposeless or absurd has an extensive history among the incarcerated. Examples include the Marquis de Sade’s famous theater performances with fellow mental institute inmates (Brookes, 1975), as well as the more recent film *Caesar must die* (Taviani and Taviani, 2013), a performance of Shakespeare’s *Julius Caesar* staged by maximum-security inmates in Italy. As another example, capoeira emerged among Caribbean slaves who were training for physical combat while seeming to participate in harmless forms of dance (Downey, 2005). While viral dance videos constitute only the most recent genre of incarcerated choreography, focusing specifically on this phenomenon allows closer consideration of two key components that have surfaced throughout our analysis of incarcerated counter-conduct: agency and legibility.

Agency, consent, legibility and counter-conduct

Early reports on the CPRDC’s “dance therapy” indicated that inmates were forced to participate in the choreographies, and that refusal could result in beatings or the removal of certain privileges (Galang, 2010; McCarthy, 2013); in one case, an inmate’s release was delayed because he was needed in a performance (Mangaoang, 2013). Since Garcia’s departure as warden in 2010, participation is allegedly voluntary, although as Mangaoang noted, the notion of choice is somewhat suspect in coercive environments [23]. Whatever the degree of agency that inmates have in participating in these choreographies, there is certainly a gap in agency between inmates and those who watch and circulate videos. Perillo (2011) argued that the hegemonic rhetoric of dance as a form of rehabilitation masks the true discursive work done by the videos [24]. For Perillo, watching viral dance videos only becomes political with an adequately nuanced understanding of incarcerated subjectivity, which requires a reading of otherness that isn’t purely about establishing binaries of inside or outside, free or institutionalized. While we agree, we draw on Rancière’s notion of political aesthetics to unpack how

resistance to this kind of simplification and essentialism can take shape.

The widespread fascination with viral dance videos (indicated by the substantial number of YouTube views and comments, as well as mainstream media attention) points to the contradiction of simultaneous attention and inscrutability. For Rancière (2013), illegibility is a deeply powerful form of political protest. In the context of political discourse, Rancière defined aesthetics as:

A delimitation of spaces and times, of the visible and the invisible, of speech and noise, that simultaneously determines the place and stakes of politics as a form of experience. Politics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of spaces and the possibilities of time. [25]

Aesthetically, viral dance videos echo Rancière's description, in that they delineate the visible and invisible, the legible and the obscured. When deprived of a voice, coordinated action demonstrates solidarity, without an obvious political valence, and it is precisely this lack, the inability or unwillingness to speak in prescribed genres or registers, that constitutes counter-conduct.

In gauging the political efficacy of these videos, we can ask what value they might have in opening up a space for critical engagement with media production and the politics of viewership. In his work on information diets, Lovink (2013) argues that:

There is a need to design daily rituals of sovereignty from the network. If we do this, we may no longer get lost in browsing, surfing, and searching, but when the techno-social routines become meaningless and there is nothing left to report, there is a similar danger of "rienisme." That's the moment when we need to come up with passionate forms of disengagement from the virtual world. [26]

Drawing together this need for "rituals of sovereignty" and "passionate forms of disengagement," we see a productive convergence of aesthetics and askesis. In his analysis of absurdist comedy, Holm (2011) leveraged Rancière's concept of aesthetics to theorize "how humour might operate as a gap in the sensible itself, and thereby explore the political potential of a contemporary aesthetics of humour" [27]. Holm went on to argue that absurdist humor disrupts the ordinary and the hegemonic, suddenly revealing embedded ideologies and hierarchies undergirding everyday infrastructures and values. One mode of counter-conduct offered by the example of viral dance videos is the production of content that is inscrutable in form, and potentially asketic in that these videos invite their viewers to participate in and initiate other forms of collective, absurdist play. These new arrangements of the nonsensical can become powerful tools of forming community and critiquing conditions of incodification.

Viral dance videos and incodification

Viral dance videos require an audience to succeed as a form of political intervention, connecting this form of counter-conduct to a larger history of absurdist and artistic practices, including Dada and Situationism. In terms of absurdist art practices informed or enabled by online technologies, we see resonances between viral dance videos and practices like flash mobs (Bimber, *et al.*, 2005), which are directed not only to a live audience but also to remote viewers, as well as artifacts like memes (Shifman, 2014), which can be characterized as media content that circulates and changes with the potential for rapid dissemination of political messages (see Rentschler and Thrift (2015) on the "binder full of women" meme as a feminist tactic of political commentary). Flash mobs in particular tend to leverage aesthetic inscrutability as integral to their efficacy as a form of provocation. The shared affordance of resistance embedded in viral dance videos, memes and flash mobs lies in using absurdity to produce a response of confusion or surprise, which can in turn provoke a consideration of the conditions that enable (or demand) artifacts of such inscrutability. It is in these interpretive moments that political discourse becomes necessary.

We also see resonances with neo-Situationist performance groups like Improv Everywhere and Surprise Surveillance Theater, and art performances directed to CCTV, such as Banksy's guerilla street-based artwork (Moore, 2008). The actors involved in these coordinations have notably more agency than CPRDC inmates in terms of whether and how to participate. Yet, the ability to consent to surveillance and monitoring is also quite limited for these unincarcerated performers; even the most strident privacy advocates concede that the efforts required to ensure greater protection from monitoring are beyond the abilities of most Internet users (and urban pedestrians). So although the conditions under which these different efforts are produced are radically different, there is nonetheless a resonance of spectacle and absurdity in the midst of highly regimented surveillance. Displays of illegibility offer, however briefly, a rupture in the typically invisible networks of incodified living, the quotidian infrastructures of surveillance and monitoring. These ruptures in turn present moments of reflection, coordination and counter-conduct.

Conclusion

Even before the 2013 disclosures of mass surveillance by the U.S. government, Internet studies scholars noted a growing unease and fatigue with social network services stemming from users' broad privacy concerns (Andrejevic, 2013) as well as a lack of fit between technological and political ideologies (Portwood-Stacer, 2013). For many end users, the chief concern driving engagement with interactive services has shifted from "how can I manage all the information I encounter?" to "how is information about me being managed?" In this context, our objective has been to theorize how structures of information surveillance can themselves be managed and subverted via tactics of online counter-conduct. We conclude by considering implications of our analysis for academic as well as activist work on structures of surveillance in everyday life.

For academics, we hope that the concept of incodification can be deployed as an analytical lens for discussing specific relations and structures of informatic power. "Surveillance" is a term that, in its generality, fails to account for the scale, complexity and granularity of the monitoring that occurs via online networks. While surveillance tends to be conceptualized in terms of two actors (x surveills y — see Bossewitch and Sinnreich, 2013), incodification addresses the conditions and consequences of surveillance as facets of technological infrastructures. A feature of infrastructure is its ability to conceal the circumstances of its origins, to render itself invisible (and beyond contestation) through normalization of its use (Bowker and Star, 1999). A key aim of introducing incodification as a conceptual apparatus is to encourage a critical stance towards infrastructures of surveillance, and as a reminder that because these infrastructural interventions are deliberate, serving some interests more than others, they can be unmade just as deliberately.

For activists, we hope that articulating connections between incarceration and incodification will help to build dialogue between people working in the largely separate fields of digital rights and prison reform. We hope that incodification will yield a new lexicon for thinking tactically about developing critical and resistant relationships to technologies, creating a framework in which digital detoxes, flash mobs and viral videos take on a political valence. Incodification draws together actions and networks under a larger coalition of resistance, a more unified but also more heterogeneous movement agitating for structural change. From a policy standpoint, we need a political vocabulary that can account for a wide range of sociotechnical issues (such as intellectual property, net neutrality and privacy) as deeply connected, and moreover as stemming from the same infrastructural systems of monitoring and control. By naming and problematizing incodification itself, we hope that policy-makers will be able to anticipate the emergent consequences of their decisions, weighing short-term tactical, political and economic concerns against the long-term implications for liberty, agency and quality of life among populations whose lives and livelihoods are increasingly enmeshed with networks of pervasive data collection and analysis.

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Notes

[1.](#) This ubiquity is neatly captured by a quote from Ira Hunt, the Chief Technology Officer of the Central Intelligence Agency: "Since you can't connect dots you don't have, it drives us into a mode of, we fundamentally try to collect everything and hang on to it forever" (quoted in Webster, 2013).

[2.](#) Murphy, 2012, p. 183.

[3.](#) Appadurai, 2001, p. 37.

[4.](#) Foucault, 1985, p. 72.

[5.](#) Bernauer and Rasmussen, 1988, p. 2.

[6.](#) Foucault, 1985, p. 73.

[7.](#) Doran, 2011, pp. 16–17.

[8.](#) We use the term tactic in the specifically Certeauian (1984) sense, referring to everyday practices of individual navigation and play in larger institutionalized strategies. Because tactics can expose ideological artifacts of larger institutional infrastructures, such tactics can take on a political valence even when not explicitly intended as such by their originators.

[9.](#) Dingley and Mollica, 2007, p. 461.

[10.](#) Ziarek, 2008, p. 99.

11. Wei and Brendel, 2010, p. 76.
12. Passmore, 2009, p. 38.
13. Kaminski, 2004, p. 208.
14. Einat and Wall, 2007, p. 176.
15. McGrath, 1975, p. 34.
16. O’Hearn, 2009, p. 512, n. 14; our own personal communications with former federal inmates confirms that this tactic is used in U.S. prisons as well.
17. Kaminski, 2003, p. 214.
18. Passmore, 2009, p. 39.
19. Christie, 2010, p. 31.
20. Coleman, 2014, p. 31.
21. We would be remiss in omitting that these practices are also used in criminal activities.
22. Mangaoang, 2013, p. 51.
23. Mangaoang, 2013, p. 51.
24. Perillo, 2011, p. 621.
25. Rancière, 2013, p. 13.
26. Holm, 2011, paragraph 7.
27. Holm, 2011, paragraph 1.

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