Article

Anti-social behaviour and its surveillant inter-assemblage in New South Wales, Australia

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Abstract

This paper describes a recent initiative in NSW, Australia in the state government's "fight against anti-social behaviour". The Anti-Social Behaviour Pilot Project has developed a surveillance regime that exempts justice and human service public authorities from existing privacy laws so that these agencies can share risk intelligence about targeted young people for a more integrated and multi-agency intensive management of risk. A detailed account of the ensemble of statements that have shaped and made this highly politicised risk governance possible is outlined. The initiative seeks to establish a more flexible mode of surveillance capable of intervening into cases of persistent risks linked to the possibility of criminal offending and the risks of persistent offending that have both become linked to public safety. Two analytical frames are used to make sense of the project. Firstly, its nodal technique for integrating case management risk across governmental assemblages (police, health etc) is analysed as an exemplar of a post-panoptical surveillant inter-assemblage designed for the networked control of young people. Secondly, Agamben's (1988, 2005) account of the state of exception is used to demonstrate how the project's extra-legal administrative procedures for managing risks linked to "the public interest" establish a spatial arrangement for the control of young people based on decisions of exclusion that are paradoxically located inside and outside the law.

Introduction: What does anti-social behaviour signify?

There is a quite lengthy trajectory within criminological positivism concerned with "juvenile delinquency" that has now come to refer to "anti-social behaviour". Here in Australia, the Temperance Project illustrates this well. This project is a longitudinal study of the psychosocial development of a large sample of children born in Victoria that traces their pathways to "psychosocial adjustment and maladjustment across the lifespan" investigating the contribution of personal, familial and environmental factors that contribute to these pathways.¹ This study is a research partnership between the Australian Institute of Family Studies and Crime Prevention Victoria, revealing its insinuation within the biopolitics² of risk and crime prevention. The focal concern of this research is "anti-social behaviour" which is broadly defined as being "adolescent behaviour...which includes criminal acts such as theft or the selling of drugs, and dysfunctional behaviours such as running away from home or physical aggression" (Vassallo et al. 2002: 1). The project attempts to codify, comprehend, and control the constellation of forces that distinguish "experimental versus persistent" anti-social behaviour. It constructs a typology of this behaviour over the life course: the vast majority of adolescents who displayed little or no anti-social behaviour (79%), a much

¹ See <http://www.aifs.org.au/atp> [Accessed on 2 June 2008].

² Foucault (1978: 138) defines biopower as "the power to foster life or disallow it to the point of death". Biopolitics, conducted largely since the eighteenth century, involves the politicisation of biological existence whereby the "body, conditions of existence, probabilities of life...individual and collective welfare" are the targets of politics and governmentality – the "facts of living...passed into knowledge's field of control and power's sphere of intervention" (1978: 142-143). Biopolitics is inseparable from Foucault's conceptualisation of governmentality (see Foucault, 1991: 102-103).

smaller group who exhibited this behaviour for a period of time but drifted out of it (8%), and another small group who persisted in this behaviour (12%). As some degree of anti-social behaviour is represented as “normal”, the contemporary concern is really about the possibilities that may lead to the passage into this persistent trajectory (which may in fact be illusory as this process of representation is a freeze-frame of a dynamic and ever-changing flow). Anti-social behaviour is an oblique codification of those subterranean, indeterminate behaviours that may be observable in childhood as “risk” behaviours – they involve and don’t involve criminal offending.

The biopolitics of anti-social behaviour is concerned with discerning and capturing these unstable, polyvalent, and opaque particle-signs in the hope that their flow towards “a life of crime” can be circumvented. The discursive space of the “anti-social” is best captured by Matza’s conceptualisation of the far-from-equilibrium conditions that he codifies as “drift” (1964, 1969). Young people vacillate or drift between constraint and choice, between the social and the anti-social, at times acting as if they are committed to one rather than the other. The juvenile system’s diversionary policies have anxiously recognised this, hoping that the “least intrusive intervention” might prevent any deepening criminalisation (Young Offenders Act, 1997). Diversionary tactics are increasingly challenged by the politics of insecurity, of law and (dis)order, guided by a desire to control the risks associated with criminality. “Controlling” risk is all the more intensified in cases where young people are perceived to be failing and/or resisting those preventive interventions. Given this governmental problematisation, this paper considers the recent Anti-Social Behaviour Pilot Project (ASBPP) developed by the NSW State Government to address young people’s anti-social behaviour.

Definitions of what constitutes “anti-social behaviour” have been notoriously difficult to make (Bland 2000; Ramsay 2004; Millie et al 2005; Millie 2007, 2008). In the U.K., Section 1(1) of the Crime and Disorder Act, 1988 defines anti-social behaviour as any conduct that “caused or was likely to cause harassment, alarm or distress to one or more persons not in the same household as himself (sic)”. These conducts would seem to be located below the threshold of criminality – it is persistent sub-criminal, public behaviour that is regarded as unacceptable and that offends civic sensibilities in some way. This refers to a range of incivilities or disorderly conducts perpetrated by young people involving vandalism, harassment to neighbours, noise nuisance, graffiti, intimidating behaviour by groups on the street and so on (Millie et al. 2005: 9). However, even this short list includes criminal offences, requiring clarification. Anti-social behaviour is “sub-criminal behaviour that is generally discouraged, plus criminal behaviour that, for whatever reason, cannot be prosecuted via traditional justice means” (Millie 2007: 613). This signals a governmental problem that requires a more flexible range of preventive interventions in response to situations that cannot be effectively dealt with by existing measures. Millie identifies one of these governmental limits – the difficulties in prosecuting relatively minor summary offences that may involve a protracted court process and result in a relatively minor sentence (2007: 613). Anti-Social Behavior Orders (ASBOs) respond to polyvalent problematisations of the criminal justice system that question the effectiveness of policing, sentencing and rehabilitation and that can be situated within a broader questioning of the state’s capacity to control crime (see Garland, 1996, 2001; Crawford 2003: 481-486). A key aspect of the biopolitics of anti-social behaviour is its characterisation as “persistent” conduct and the subsequent governmental desire to tame a small group of young people who have up until now remained relatively impervious to interventions within the existing juvenile justice surveillance networks.

In the UK, ASBOs are a technique of government that sits alongside, extends, and passively relies upon existing penal processes (Crawford 2003: 481). The orders are a hybrid technique involving a two-step prohibition (Simester and von Hirsch 2006). They begin as a civil initiative that can be made by the police or local authorities and imposed on anyone over the age of 10 whose behaviour is thought likely to cause alarm, distress or harassment. The decision to initiate the order is a discretionary power based on highly context-dependent assessments about conducts that are perceived as causing annoyance or anxiety (Ramsay 2004: 910). Within the provisions of the Crime and Disorder Act, it is part of a flexible and

more exhaustive attempt to incorporate local knowledge and initiative to identify and respond to crime and disorder by developing partnerships between police, local authorities and other key agencies. Ramsay's analysis indicates that anti-social behaviour is defined in law as "any manifestation of a disposition of indifference to the feelings of others which is contrary to public policy". Local authorities make this subjective assessment about young people's behaviour using civil or extra-legal powers to apply for the order, which must be finally decided by the judiciary (2004: 18). Breaches of ASBOs are punishable by up to six months for a summary conviction and five years on indictment. As a technique of contractual governance, the order is used to facilitate "regulated self-regulation", where the criminal justice system provides a "back-up system" in cases of non-compliance (Crawford 2003: 488).

Efforts to eliminate anti-social behaviour are intelligible as preventive measures of the "pre-crime era": those programs of government concerned with "anticipating and forestalling (crime, harm) which has not yet occurred and may never do so" (Zedner 2007: 262). The pre-crime era desires a (hypothetical) state of living without threat by pre-emptively neutralising (actual and potential) threats and avoiding danger (Zedner 2003a: 155). It employs security mentalities involving a temporal shift away from retrospectively responding to the wrongs and harms of crime towards a focus on eliminating, minimising, and displacing loss (2007: 265). Its governmental programs consequently exercise a sectoral shift involving the neo-liberal dispersal of state functions, as evidenced by a burgeoning ensemble of non-state actors in the production of security (private security, community safety and crime prevention, and personal crime prevention) (2007: 263). Section 1(1)(b) of the Crime and Disorder Act, 1998 enables orders to be made on the basis of subjectivist risk assessments that the accused person's conduct "is likely to cause harassment, alarm or distress" even when it may not have done so up until now (Ramsay 2004: 911-913). Pre-emptive measures for responding to anti-social behaviour are rationalised from the stance that if they are left unchecked, it will lead to a worsening crime problem.³

The control society and the surveillant inter-assemblage

As a pre-emptive technique for securing local order, the regulation of anti-social behaviour can be analysed as one of the proliferating biopolitical assemblages⁴ within the "control society" (Deleuze,

³ This rationalisation associates local disorder with the concept of "broken windows" (Wilson and Kelling 1982). Wilson and Kelling advocate for broader and more flexible governance in which police discretion should not be unnecessarily regulated. They regard policing practice as a key institution for maintaining and promoting civil conduct and social norms, a formulation which is intelligible within Zedner's analysis of the pre-crime era. Research also demonstrates how local "crime and disorder" preventive efforts are insinuated within urban regeneration efforts that serve commercial interests by excluding and dispersing others (eg Davis 1992; Merrifield 2000; Raco 2003; Rogers and Coafee 2005). Beckett and Herbert examined local government's use of architectural design, civility laws (off-limits orders, park exclusion orders, trespass laws etc) and high visibility policing to augment and extend the dispersion and exclusion of unwanted subjects from contested urban spaces (2008: 8-16). These post-disciplinary controls use a complex of civil, administrative and criminal authority that both supplant and augment the powers of arrest and detention. Together they indicate a "significant extension of the State's authority and dispersal of its surveillance capacity throughout the urban landscape" (2008: 16).

⁴ Deleuze and Guattari define an assemblage as the emergent effects of heterogeneous material that have combined together with some degree of consistency (1987: 327). This material synthesises a complex mix of forces involving the semiotic and the material, producing a topological field or "territorial assemblage". Any particular assemblage actualises virtual intensive forces (or flows) that connect across the nature/culture divide within a differentiated, immanent, open system of relations capable of preserving the heterogeneity of its elements. "We will call an assemblage every constellation of singularities and traits deducted from the flow – selected, organised, stratified – in such a way as to converge (consistency) artificially and naturally" (1987: 406). Assemblages possess some degree consistency or self-ordering over time, generating emergent systemic affects (which are always open to transformation). Deleuze and Guattari describe assemblages as being composed along two axes: a machinic assemblage of content-expression, and, an axis of territorialization/re-territorialization (1987, 88). The content segment of the assemblage is comprised of bodies, of actions and passions, that provoke and regulate the matter-energy flow of the assemblage as events (Bonta and Proveti 2004: 54). The expression segment is the collective assemblage of enunciation, of acts and statements, that generate particular socio-historical regimes of practices and discourses. Each assemblage possesses re-territorialised sides that "stabilise it" as well as "cutting edges of de-territorialization, which carry it away" (Deleuze and Guattari 1987: 88). De-territorialization is a transversal movement, or "line of flight", that searches out opportunities for creative actions that break down and mutate assemblages, establishing the conditions for new assemblages (Bonta and Proveti 2004: 55).

1992). The “control society” refers to Deleuze’s diagnosis that our systems of surveillance have reached a critical threshold where the technologies and apparatuses of panoptical surveillance have begun to break down, becoming replaced with logistical programs of “control”. Control is his diagram for characterizing this new modality of de-territorializing power that facilitates the relaxing of surveillance within discrete/bounded biopolitical assemblages so that it is capable of combining with other forces for a more seamless and intensive surveillance that cuts across assemblages that would otherwise function relatively autonomously using single-minded governmental programs. What we are witnessing with the regulation of anti-social behaviour is the establishment of a new threshold that re-orders biopolitical relations to establish a more intensive surveillance of young people within a matrix that combines welfare and criminal justice functions. This de-territorialization of governmental apparatuses increases the complexity of relations by allowing consistencies within the new welfare-justice assemblage that circumvent and erode established criminal justice principles as well as violating the prerogatives and agency of young people.

Technologies of control can be characterized by their potential for the “molecularisation” of surveillance that re-configures the target of surveillance as a member of a risk population rather than as a (molar) individual (Deleuze and Guattari 1987: 334-337). Molecularisation is defined here by its mode of composing individual bodies within probabilistic or statistical relations that effaces their individuality as they become are recombined as a member of a risk population. Panoptical surveillance constituted the subject as an individual positioned within a mass who is made permanently visible for techniques of normalisation within segmented territories. This individual is mobilised within particular biopolitical assemblages in order to produce capacities within individual bodies (Foucault, 1977; Deleuze 1992: 179). In contrast, molecularisation uses actuarial calculations about discrete risks, identified under localised, far-from-equilibrium conditions that are correlated at a distance, recomposing the individual in a more supple way that transports her or him for differentiated treatment according to the level of risk discerned (Deleuze and Guattari 1987: 334-335). This occurs in electronic surveillance technologies that amass data about individuals and deploy digital codes to identify the individual as a “data-double” within its databank, biometric, or risk classification engine (see Feeley and Simon, 1992, 1994; Poster, 1996). Molecularisation reconstitutes the individual as a “dividual” who is no longer the subject of representation as a molar and irreducible political unit – rather, the “dividual” is a risk fragment or a data code located within a population or mass whose movement can be stopped or directed along particular flows according to the particular logistics of the surveillance regime (Deleuze 1992: 180).

At the macro level, this capacity for “de-stratifying transversality” establishes a “molecularised system” that triggers qualitative change in system behaviour across heterogeneous biopolitical assemblages. De-territorializing rationalities and techniques are used to break-down, re-arrange and develop new and more totalising regulatory controls that would not be possible in localised assemblages (such as juvenile justice, child protection, policing, housing, or education). As described in the next section of this paper, risk rationalities are combined with a nodal technique of government to establish a threshold that permits justice and human service agencies to share risk information that would otherwise not be legitimate in order to combat anti-social behaviour. This more nomadic system of control establishes a welfare/justice inter-assemblage that selects young people for intensive case management risk, deploying co-ordinated strategies for maximal, continuous effect (Deleuze and Guattari 1987: 335). This tendency to bring

As this paper is using Deleuze’s conceptualisation of the control society as involving de-territorialising forces that re-territorialise any particular ‘territorial assemblage’ as an “inter-assemblage”, I will be referring to any particular governmental apparatus as a “biopolitical assemblage”. Deleuze and Guattari provide us with an alternative, but nonetheless complimentary, way of understanding Foucault’s conceptualisation and genealogical analysis of “apparatuses of government” and how they are insinuated within biopolitics. An apparatus is composed of a multiplicity of elements and force relations that articulate and make visible the operations of biopower (as well as control). See Robinson (2001) for a detailed examination of the topological lines of convergence between Foucault’s spaces of problematisation and Deleuze and Guattari’s nomadic geophilosophy. Both lines of inquiry historicise and spatialise the movement or action between the surfaces of the historical and the actual that produce the conditions of emergence for any particular tactical knowledge/power apparatus of government.

systems together in order to integrate them into a larger whole is the sense in which Haggerty and Ericson understand surveillance as the “surveillant assemblage” (2000: 610-611). They comment: “...to the extent that the surveillant assemblage exists, it does so as a potentiality, one that resides at the intersections of various media that can be connected for diverse purposes” (2000: 609).

The NSW Anti-Social Behaviour Pilot Project

Combating anti-social behaviour is a priority area in the NSW State Plan. Repeating the definition of anti-social behaviour defined in Britain’s Crime and Disorder Act, the plan is concerned with “behaviour that while generally falling short of being criminal, causes harassment, alarm or distress to others” (NSW Government 2006: 32). It acknowledges that recorded levels of crime have consistently fallen in recent years, however asserts that there is “a minority of people...who disrupt (communal harmony and trust) through anti-social and criminal behaviour” (2006: 23). It is stated that “some communities...hold fears for their personal safety” signalling the uneven distribution of a politics of securing safety and order. The perpetrators are described as “louts”, “noisy neighbours” and “dangerous, noisy hoon drivers” who express “declining standards in manners and respect for others”.⁵ A series of possible events are chronicled that span the criminal and the non-criminal: playing loud music, bad manners, verbal abuse, harassment, intimidating behaviour, hoon driving, public drunkenness, vandalism, graffiti and violence. As serialised imagined events, these conducts and the affects they incite, are phantasm-events as the distinctions between the imaginary and the real, the virtual and the actual, the possible and the event, and the past, present and future become blurred, entering a zone of indistinction that nonetheless has material affects (Deleuze 1990: 210-212). As such they generate “an unbearable waiting – the waiting of that which is going to come about as a result, and also of that which is already in the process of coming about and never stops coming about” (1990: 211). This condition of unbearable waiting circulates within a politics of insecurity in anticipation of potential threats yet to arrive, that are vaguely sensed. It is not surprising that strategic objectives seek to reduce “perceptions” of these phantasm-events rather than any actualised event (2006: 32-33).

The Anti-Social Behaviour Pilot Project (ASBPP) was launched in NSW in September 2006 to establish a process for “identifying and assessing children and young people who are at risk of causing harm to themselves or the community, and the development and implementation of a co-ordinated case management plan” (Department of Premier and Cabinet 2009: 2). The project establishes a process for exempting justice and human service public authorities from existing privacy laws so that they can exchange risk information about targeted young people for a more totalising and intensive multi-agency management of risk. The initiative is situated within the NSW Government’s Crime Prevention Framework which is concerned with developing “a strategic approach to the achievement of crime reduction goals identified in the NSW State Plan” (Department of Premier and Cabinet 2008: 2). In addition to the ASBPP, this framework promotes the formation of “crime prevention partnerships” between communities, government agencies and business groups using situational crime prevention strategies in local level designated priority areas (2008: 4, 28). These partnerships are co-ordinated under the leadership of the Crime Prevention Steering Group, a central governmental hub led by the Department of Premier and Cabinet, that seeks to shape the flow of events for those agencies and authorities permitted to participate in both the Crime Partnerships and the ASBPP. These partnerships are an additional measure to the Safer Community Pacts that local government authorities must develop in response to local crime problems. The partners are jointly held accountable for delivering identified crime targets linked to the State Plan established by the Steering Group. This group is comprised of senior officers from the

⁵ “Hoon” is an Australianism that refers to loud and aggressive young men who drive in a loud and aggressive car, often while playing loud music (Fuller, 2007: 125). Fuller describes how this particular kind of anti-social behaviour has been the subject of moral panicking in Australia over the past decade. This moral entrepreneurship has constructed hooners as a public nuisance problem (eg street racing, playing loud music, cruising the streets and burnouts) that is broadly linked to anxieties about young people and how they use public space.

Department of Premier and Cabinet, the Attorney General's Department and NSW Police. The partnership's networks facilitate more effective information exchanges on local crime problems as well as of resources and situational tactics for combating them. Information sharing de-territorializes crime and safety intelligence from operational and local systems of knowledge within Local Area Police Commands that would otherwise be inaccessible to local government or community-based audits of local crime data. It also enables local risk information from other individuals, agencies and authorities for communicative action within risk-driven crime prevention communicative flows. The strategic nature of these partnerships can result in anti-social behaviour being targeted for situational crime prevention measures that are driven by "single-minded" security-driven measures based on a skewed perception of the nature of disorder (Rogers and Coafee 2005: 324, 326). As a form of spatial government, a more continuous network of public spaces is planned and implemented that creates "a system of dispersal" that (in)directly excludes minority users who have a high street presence perceived to be in conflict with the production of a secure order (Flusty 2001).

The project as a technique of nodal governance for securing control

The ASBPP operates under the leadership of the ASBPP Working Group reporting to the Crime Prevention Steering Group. This working group is comprised of senior public sector officers enlisted from justice and human service agencies. In order to facilitate its integrated approach to multi-agency case co-ordination, the project aims to "cut the red tape" so that participating agencies can share risk information that might otherwise be regulated as being non-transferrable under the Privacy and Personal Information Protection Act, 1998 and the Health Records and Information Privacy Act, 2002. The project removes privacy regulations that prevent the police, as the first point of contact with these young people, from initiating risk information sharing (Iemma 2006: 2230). Without the exemption, only the Department of Community Services has the powers to initiate risk information sharing for children under the age of 16 in relation to child protection concerns. A case must be made that is in "the public interest" to share this information and be granted an exemption (Department of Premier and Cabinet 2009: 17). These exemptions allow the participating public sector agencies to exchange information about these (risky) young people who are referred for case co-ordination with or without the consent of the young person or the child's parent or guardian "to assist case co-ordination and crisis management" (2009: 17).

The ASBPP can be characterised as a form of nodal governance that responds to governmental deficits linked to deteriorating and politicised social conditions (Shearing and Wood, 2003; Dupont, 2004; Wood and Shearing 2007: 27-33). Wood and Shearing (2007: 27-28) conceptualise a node of government as an assemblage of (security) governance that mobilises resources, rationalities and technologies in a co-ordinated way along a particular governmental axis (eg policing) or along multiple, networked axes. I am using "nodal governance" here as a technology for networked communications and processes that aids the emergent logistics of inter-assemblages: a node is a point of intersection and connection for the active redistribution of heterogeneous regimes of practice along a more integrated flow. The ASBPP is a nodal technique for risk communications that insinuates the diverse biopolitical assemblages that potentially contribute to risks (as well as risk prevention) associated with anti-social behaviour and offending. Under the steerage of the ASBPP Working Group these differentiated assemblages are re-distributed within a networked topological field, producing a new securitised inter-assemblage.

The project produces a series of localisable dense security networks within zones of elevated defence deploying future-oriented risk rationalities to achieve vigorous networked risk suppression. The exemptions granted are only permissible within fifteen scheduled Police Local Area Commands spread across NSW (Department of Premier and Cabinet 2009: 34). These locations are shown in Figure 1 below. Seven of these commands are located in the metropolitan region of Sydney, the remainder in regional and remote NSW. These local surveillant inter-assemblages are hybrid, as they have been re-composed as police-welfare networks, capable of both coercion and surveillance, to access the targeted "risk" population of young people (De Lint 1999: 135). In zones where law and order have previously broken

down, or, where there are perceptions that it may break down, the state's ability to provide security is delegitimated to some degree. Those young people identified as being at risk and taken into the ASBPP must have had prior interventions that have "failed to reduce risks so far" (Department of Premier and Cabinet 2009: 44). De Lint (1999: 138) argues that neo-liberalism and risk reduction "forestall a crisis of legitimation" - not only for the authority of the police who must increasingly deploy high visibility policing in these public zones of social marginalisation and exclusion, but also those other agencies that are held accountable for polysemic risks linked to criminality and recidivism. Within this security-driven inter-assemblage, rights are traded for intelligence-led strategies that identify and target the most risky individuals. This network is made all the more dense as, in many of these zones, additional provisions have also been enacted under the Crime Partnerships initiative to mobilise resources within local security networks that target "crime hot spots".

Figure 1: ASBPP Locations

Intensive case management risk

The ASBPP Working Group has rationalised and operationalised the project as a technique for case management risk which regulates the actions of participating authorities by means of its case co-ordination guidelines. “Case management risk” is a hybrid technology of government located at the interstices of normalising interventions with young people and the actuarial prediction of risk. As Dean explains, it draws on the exercise of bureaucratic judgement (welfarist or psy expertise) and the calculation of risk for individuals and families, as they are located within risk populations by means of risk instruments (1999: 189). Risk calculations continue to use the older observational and professional judgments of educational, health, policing and justice expertise, however this is supplanted and re-configured by means of risk instruments that direct case management practices along bifurcating flows linked to the level of calculable risk. A “Consent Risk Assessment” instrument is used to decide upon the seriousness of risk which, in turn, directs case management within a more intensive co-ordinated flow involving the participation of multiple agencies (Department of Premier and Cabinet 2009: 19-20, 44).

In each of the areas in which the project operates, case co-ordination panels have been established comprised of local case managers selected by a senior officers’ Case Co-ordinating Group (CCSOG) who are required to jointly develop, implement and review case plans. CCSOG is comprised of senior representatives from many of the participating agencies and reports to the ASBPP Working Group. In situations where a local participating agency (eg the Police Youth Liaison Officer) decides that a young person meets the eligibility risk criteria for referral into the project, a risk assessment is completed and the case referred to the CCSOG panel. The young person must be under 25, live in or habitually reside in the area, have a history of failed prior risk interventions, and be considered as requiring multi-agency intervention. The entry procedure nullifies the requirement of obtaining consent for those subjected to case management risk co-ordination. Using a simple checklist of “yes” or “no”, any agency requesting an exemption is asked to evaluate the risks of harm to agency staff requesting the consent, retaliation against members of the community, harm to the child or young person by others, self harm by the child or young person, delay in provision of services to that child or young person, the child or young person leaving the area to avoid intervention (2009, 19: 44). The identification of one of these “risks” is enough to justify the decision, making it difficult to imagine how consent would be sought.

ASBPP applied to, and was granted, these exemptions by the NSW Privacy Commissioner in 2006. Section 41(1) of the Privacy and Personal Information Act, 1998 enables the Commissioner, in consultation with the Attorney General, to exempt a public sector agency from complying with “an information protection principle or a privacy code of practice” or to permit that principle or code to be modified. Section 62(1) of the Health Records and Information Privacy Act, 2002 enables the Commissioner to exempt an organisation from complying with a privacy principles and codes of practice or to allow these codes to be modified. This empowers CCSOG to assess, approve and monitor cases referred to it, where the level of risk was determined to be high enough that it warranted these exemptions. It is rationalised that seeking consent could “unreasonably prevent or delay necessary service being provided with the result that the child/young person or third parties might suffer harm” (NSW Ombudsman 2008a: 14). In the unlikely situation where consent may be solicited, if the young person does not agree to participate in the program, their decision can be over-ruled by the provisions established for obtaining the exemption (Department of Premier and Cabinet 2009: 19-22). CCSOG can invoke the exemption for six months, however ongoing assessment can permit further exemptions (2009: 17).

After granting the exemption, CCSOG assigns a lead agency from the local co-ordination panel responsibility for co-ordinating and monitoring the integrated case management process. This agency regularly chairs case management meetings with other agencies involved in the case to develop and implement the case plan, deliver services and monitor progress and ongoing risks which are, in turn, reviewed by CCSOG. ASBPP guidelines state: “The responsibility for the safety and well-being of young

people in our communities does not lie solely with one agency...Agencies dealing with one specific area of needs should be aware that in many instances a change in a person's circumstances in one regard have repercussions in other areas" (Department of Premier and Cabinet 2009: 10). Nodal governance from above facilitates a networked risk assessment that would otherwise not be synoptically intelligible to individual case managers. A standardised risk case planning instrument is used to interpolate the local panel of participating authorities to assess, plan, deliver and monitor risk interventions across six domains: housing, health, education and vocation, emotional and social functioning, family relationships and functioning, and legal issues pertaining to policing and juvenile justice (2009: 51-59). This de-territorializes various professionals from their routine spatio-temporal professional boundaries and joins up services across boundaries, as well as across levels of government (planning, delivery and management).

The discourses that frame this project constitute "anti-social behaviour" as an assemblage of heterogeneous, multifarious, recursive risks codified as "complex and crisis cases" that traverse biopolitical assemblages. Children and young people share a common set of risk and protective factors linked to early parent-child attachment, peer and school connectedness, availability of social supports for family, and parental poverty (Durlack 1998; Scott 2006). These risks and their prevention are insinuated within many governmental programs including the child protection, policing, juvenile justice, housing, mental health, and education assemblages. Risk interventions within any particular terrain cannot easily be separated from the reflexive government of those risks across agencies. Reflexive government involves the perpetual "government of government and governmental mechanisms (concerned with) operating upon existing forms of government" (Dean 1999: 211). Of particular relevance here is those processes of continuous evaluation of the success and failure of governmental programs, including the identification of the perceived limits of its various power centres. For example, the NSW Commission for Children and Young People's report (2003) on suicide and risk-taking deaths of children and young people found that these deaths were correlated with low Year 12 completion rates, high rates of drug usage, higher rates of criminal offending, and separation from families. Similarly, risk factors that take children and young people into the child protection system have themselves been identified as risk factors linked to entry into the juvenile justice system (Weatherburn et al. 2007; NSW Ombudsman 2008b: 14-21). Within Australia, service provision for young people is understood to be poor, with many service gaps, especially in rural areas (NSW Ombudsman 2009b: 3; Wood 2008: 213). The Federal Youth Pathways Action Taskforce found that youth services were fragmented, demonstrated conflicting objectives, wasted resources, and poorly co-ordinated resulting in many young people "slip(ping) through the cracks" (2001: 8). Recommendations from this reflexive government repeatedly demand comprehensive, integrated, multi-agency response, often within contexts where these young people may be "difficult to engage" (NSW Ombudsman 2008a: 8; Wood 2008).

Integrated multi-agency processes are consistently valorised as a technique for improving case management risk. NSW has witnessed a proliferation of legislative, policy frameworks, and initiatives that reconfigure networks of risk to "improve client access to a suite of services, either by co-locating teams of service providers or through some form of comprehensive case management" (NSW Ombudsman 2008c: 8). The ASBPP was modelled on the Redfern-Waterloo Case Co-ordination Project (CCP). In 2004 the NSW Premier's Department sought exemptions to allow agencies participating in that project to gather and use personal and health information related to approved clients with other agencies in relation to a small number of high risk young people and families with "complex needs" living in the area. The most common risks co-ordinated through CCP were linked to child neglect, poor school attendance, substance misuse, behavioural issues, and criminal activity, with most cases demonstrating three or more of these risks (2008c: 12). Deploying a corporatist concern with "efficiency", co-ordinated multi-agency case management risk rationalises that casework is improved by widening the orbit of any particular service provider's "parochial" awareness of what others are doing (or could be doing), helping to re-configure casework decisions within a more totalising risk prevention strategy. The CCP was designed to address

key barriers to effective service delivery: at risk young people who were falling through the net (the risks presented fell outside routine practices and criteria for service provision of the agency); an intervening agency's lack of awareness of other agencies' involvement with young people (resulting in the duplication of services, blurring of roles, and inconsistent or conflicting case objectives); and the absence of a co-ordinated, multi-agency response to risk (EJD Consulting and Associates 2007: 2-3).

The ASBPP's case management risk is a form of "intensive case management". This technique typically co-locates a team of inter-disciplinary and inter-jurisdictional professionals together to provide a more accessible, integrated multi-component risk prevention program that focuses on early intervention (NSW Ombudsman 2008c: 9-14; Wood 2008: 201-262, 569-572). The ASBPP was influenced by an "integrated case management" (ICM) initiative developed in Dubbo (a regional centre in rural NSW) in the aftermath of rioting on the Gordon housing estate after police tried to arrest an Aboriginal young person who was allegedly driving a stolen car. The estate has been represented as having high levels of crime and disorder including drug trading, the torching of cars, alcohol-fuelled violence involving feuding families, and "packs of kids roaming the streets", exacerbated by poor police/Aboriginal community relations (Lauder 2006; Tiley 2009). ICM established a nodal hub for interagency co-ordination, developing intensive case management plans. It deployed a risk intelligence based practice that profiled "problematic families" - the referral process focused on the referring agency preparing a profile about the young person and his or her family that informed the action plan, the tasks of inter-agency partners, risk information exchange, and ongoing risk monitoring. A continuous network of surveillance tracked the movements of these targeted families to maintain intensive case management even if they left the local area (NSW Ombudsman 2008c: 13-14). This profiling is modelled on intelligence-led policing where crime and information analysis has become a growth area within policing organisations (Ericson and Haggerty 1997; Gill 1998). In NSW the police's intelligence-led approach to risk has been championed as a model for inter-agency risk management with little regard for the rights of those families (NSW Ombudsman 2008a: 11-12; Wood 2008).

Intensified risk suppression blurs the boundaries of who is targeted in case management as it incorporates both the young person and her/his family. Biopolitical objectives slide in between the case management of "vulnerability" and "dangerousness", entering a zone of indistinction. Similarly, virtual profiles of high risk cannot be disentangled from matched cases that are used to justify intensive case management. Intelligence-led risk systems consistently tell us that the risks of harm to self or others are concentrated in a small population, irrespective of whether this is in relation to "anti-social behaviour", juvenile offending, domestic violence, child abuse, or the over-representation of Aboriginal young people in the child protection and juvenile justice systems. Child protection data in NSW reveals that 50% of all risk of harm reports made to the Department of Community Services are concentrated within 7,200 sibling groups (NSW Ombudsman 2008a: 11). As these polyvalent risks are understood to be multiple and chronic, intensive case management risk is justified and geared towards improvement across broad domains of living as well as across life stages and transitions (Wood 2008: 215-219; NSW Ombudsman 2008c: 13).

Logistically intensive case management of risk directs its surveillant inter-assemblage towards increasingly young people, rationalised by the need for more comprehensive, multi-agency, earlier interventions. The Wood Inquiry into child protection services spent considerable time discussing integrated case management of risk in the inter-assemblages of child protection, juvenile justice, schooling and policing. The report asserted that the transition between late childhood and early adolescence had been given insufficient governmental attention (Wood 2008: 213). It would seem that many children as young as eight are slipping through these assemblages: they may have no history of prior intervention, they "are at risk of developing problems" in the future estimated on prevalence rates of mental health problems, substance abuse, conduct problems and child protection risks, or they have received interventions but these have not lowered the risks so far. To take just one example, the Department of Education and Training has been repeatedly criticised for failing to take decisive action in relation to

habitual non-attendance of school children, which is particularly high for Aboriginal children (NSW Ombudsman 2008b: 13; Wood 2008: 256-258). Truancy is a high risk factor in juvenile offending (Weatherburn et al. 2007). Aboriginal young people enter the juvenile justice system at a much earlier age than non-Aboriginal young people and they are subjected to more punitive sanctions becoming entrenched within the criminal justice system (Cuneen 2008). In these sorts of cases interventions are often undertaken for relatively short periods of time, which is regarded as a limit of government. For example justice interventions are limited to (legislated) short periods of time, where other agencies withdraw their services (eg deciding that Juvenile Justice is in the best position to provide a service; due to a reluctance to take on complex high needs clients who may be difficult to engage or who pose occupational health and safety risks to staff (Wood 2008: 569)). In cases where there is a history of failed interventions, the ASBPP provides infinitely greater potential for unbounded case management risk.

Intensive case management risk is clearly designed for young offenders who commit less serious but multiple offences. In November 2008, the Children (Criminal Proceedings) Act, 1987 was amended to include a new sanction, Youth Conduct Orders (YCOs). These orders target “offences covered by the Young Offenders Act 1997, but for whom the diversionary scheme created by that Act is not appropriate” (S 48A (a) and (b)). Introducing the Bill in Parliament, the Attorney-General described it as an initiative “in the fight against anti-social behaviour” (Hatzistergos 2008: 10488). This new penal sanction was not opposed when it was debated in Parliament. The legislators were looking for a “tough” line of escape from the state’s diversionary tactics for “lower end, anti-social type offences” (such as malicious damage or offensive conduct) designed to communicate “a very clear message to young people that committing crimes will not be tolerated” (Stokes 2008: 10995). The speakers repeatedly problematised the leniency of diversionary sanctions as well as sanctions imposed by magistrates in the Children’s Court (Legislative Assembly 2008: 10989-109105). A category of young offender was discursively constituted as an incorrigible repeat offender who accumulated police warnings and cautions as a “badge of honour” or as a passage into criminal gang membership or a career as a serious offender. This offender was understood as lacking support from families and justice agencies and effectively “slipping through the cracks” of the justice system as a result of inadequate or absent interventions.

YCOs were described by Hatzistergos as an “intensive, tough and early” intervention to “force” young people to turn away from “a life of crime”. Youth conduct orders place limits on young people charged with “an anti-social offence”. A behavioural plan is ordered by the Children’s Court requiring the person to comply with positive and negative provisions for up to 12 months. A YCO can include requirements to complete a course of study or training, attend counselling as well as provisions to prohibit the person from associating with specific persons or kinds of persons, requirements to reside in a specific place and to report to a specific person or body. Protocols for these orders are structured in the same way as the ASBPP - those referred to the court must be assessed and supervised by a multi-agency case co-ordination group that is steered by a Senior Officers Group. The same rationalities are repeated: the orders will “direct young people to participate in intensive early intervention programs based on co-ordinated case management from human services and justice agencies” (Legislation Review Committee 2008: 7). When commenced, these orders will operate in three piloted police local area commands, effectively extending the ASBPP from fifteen to eighteen scheduled areas (see Figure 1).

YCOs are the only sanction that the Children’s Court can administer without determining a finding of guilt or requiring the young person to admit guilt before delivering the punishment (see Children’s (Criminal Proceedings) Act, 1987 s 48G(1) (a) and (c)). The Legislative Review Committee raised a number of concerns about the rights and liberties of young people subjected to these orders. It is not only that young people can be required to comply with these orders on the basis of the charge without being found guilty of an offence, but that s/he can also be required to appear before the court on the suspicion of non-compliance and then treated as an offender for non-attendance (s48P). The Committee raised concerns that both the order and the sanctions for non-compliance were a form of excessive punishment

as well as a violation of due process that gave the Director-General excessive executive powers to administer the program without parliamentary scrutiny (2008: 15-19). While these orders are seemingly under the jurisdiction of the Children's Court, what happens to the young person is ultimately determined by extra-legal means involving the multi-agency case co-ordination hub located in each police Local Area Command.

As such the young person, who would normally be entitled to "the least intrusive intervention" (a caution, warning or youth conferencing) under the law, is subjected to a more indeterminate "containment" that takes place in the community, as "recidivism" has figured the person as being "out of control, in need of total restraint" (Butler 2004: 78). These amendments relegate the law to an instrumentality of the state that serves the interests of bureaucratic managers, where the law is variably applied, contorted and suspended by extra-legal procedures (2004: 83). In cases of non-compliance, the young person is returned to the law so that the intensive extra-legal efforts are nullified and the person treated according to the law as they should have been from the very start – the person may be warned and no further action taken, or the order may be revoked which necessitates determining guilt and then sentencing the offender using the sanctions already inscribed into the Children (Criminal Proceedings) Act, 1987.

Together, these intensive multi-agency interventions blur the boundaries between risk-based prevention using early intervention before an offence is committed, and risk-based prevention after an offence is committed, as all cases are co-ordinated by means of the local, multi-agency nodal hub. It makes no difference if the young person's anti-social behaviour places them "at risk of offending" or if their persistent "anti-social offending" places them at risk of incarceration – they are all targeted for the exhaustive extra-legal controls of the surveillant inter-assemblage. The ASBPP promises fast, effective, concerted and unbounded action for this troublesome segment that is "not dangerous enough to lock away but too disruptive to ignore" (Pratt 1989: 247).

My account of the ASBPP is confined to the rationalities and techniques of government that have constituted the surveillant inter-assemblage as thinkable and possible. This limits the analysis in that it has not considered the way in which age intersects with race, ethnicity, gender and class, over-exposing particular kinds of subject to the excessive controls of the ASBPP. In particular, Aboriginality is a focal concern of reflexive government in Australia as a whole, where the "over-representation of Aboriginal young people" continues to be framed from a dominant white, neo-colonial perspective as "a problem to be managed" (see Blagg 2008). Across all state jurisdictions in Australia, Aboriginal adult and juvenile offender rates of over-representation in prison and detention have not declined in spite of strategic efforts to reduce this over the past nineteen years in response to the exhaustive recommendations of the Royal Commission into Aboriginal Deaths in Custody (Johnston 1991; see Cunneen and White 2007: 280-281; Cunneen 2008: 53-54; Blagg 2008: 5-10, for rates of over-representation). In NSW, the Young Offenders Act diversionary objective is clearly linked to addressing this over-representation (see s 3 (d)). However, Cunneen (2008) has shown how this has not reduced the level of contact that Aboriginal young people have with the criminal justice system nor do they have the same benefits of less intrusive criminal justice processes.

Blagg (2008: 2) asserts that "the Aboriginal problem" has been framed by the dominant white institutions as "essentially a problem of order". Aboriginal young people are more likely to move about in public space in social groupings based on connections with extended family and classificatory kin, these groupings comprising an age range anywhere between seven and the mid to late twenties (Blagg 2008: 71). Their movement is less confined to territory as they roam traditional places and sites as well as using "guerrilla tactics" in their struggle with white authorities, and sometimes continuing traditional clan and family rivalries and feuds across a diversity of sites (see also Crime Research Centre and Donovan Research 1999). These cultural differences bring Aboriginal young people into contact/conflict with a range of authorities earlier than non-Aboriginal young people as well as sustaining that contact much

longer than the typical profile of the young offender. In NSW Aboriginal young people are more likely to be arrested and charged by the police than non-Aboriginals (Cunnen 2008: 50). As they are also more likely to be arrested under the age of 14, it is easy to see how they will become increasingly targeted for risk prevention efforts - being placed on a supervised order fourteen years or younger has been found to be one of the four most significant predictors of re-offending (the others being not attending school at the time of the first offence, suspension or expulsion from school at the time of the first offence, and the number of prior contacts with the justice system (Weatherburn et al 2007).

When considering Aboriginality there is a convergence of multiple forces that are open to a wide variety of complimentary and competing explanations. Within the context of the ASBPP, there is a convergence between the politics of insecurity that combines the a more general concern with “anti-social behaviour” with Aboriginal young people’s high visibility in public space and more localised panics about public disorder and crime involving Aboriginal young people/communities, often in regional centres in NSW. The fact that the two prototype projects taken to shape the ASBPP were established in response to crisis conditions involving Aboriginal communities, is highly salient. Given the incommensurable differences between Aboriginal and non-Aboriginal people in Australia, it is worth noting Feeley and Simon’s claim that actuarial risk management has transformed penal practice into a waste management system driven by the “imperative of herding a specific population that cannot be disaggregated and transformed but only maintained” (1992: 469). If we accept this claim then the ASBPP can be understood as a neo-colonial and white managerialist program for “monitor(ing) and manage(ing) intractable groups”. To the extent that Aboriginal young people figure prominently as a risk population, we can interpret their inclusion in the ASBPP a kind of warehousing or incapacitation “in place” initiated in the community (Simon, 1988: 773). Techniques of control target members of a risk population for risk suppression within the community designed to secure unacceptable risks and dangers. This is most evident in the technique of YCOs which control risks by restricting young people’s possibilities of movement and action, through exclusion from general and particular locations and from opportunities to obtain goods and services, and through exclusion from various activities. Cases involving non-compliance, which will be exacerbated by cultural conflicts in case management risk, will in turn, contribute to greater mobility in between detention and community control. Unfortunately, there is no publically available data that provides demographic information about the young people involved in the ASBPP, or about what happens to them over time. The claims made here remain open to empirical support or refutation. Lynch et al’s (2003) research into recidivism has demonstrated that young people on supervision orders with multiple risk factors (such as being male, Aboriginal and under care within the child protection system) have close to a 100% probability of being imprisoned as an adult. Cunnen (2008: 51-53) demonstrates that Aboriginal young people “do not fare well” within risk programs commenting that their offending histories “place them outside” the rights and protections of the justice system, effectively redefining them as a “group that society needs protection from”, thus making pre-emptive and exclusionary measures thinkable.

The encampment of young people within the surveillant inter-assemblage

For Agamben the camp is “a piece of land placed outside the normal juridical order, but that is nevertheless not simply an external space” (1988: 169-170). He regards the juridico-political structure of the concentration camp as the hidden matrix and *nomos* of the political space in which we are still living rather than as being a historical anomaly (1988: 166). The Nazi concentration camp was born out of the sovereign’s declaration of a state of exception in response to a threat to public security and order. It was brought into being by a juridical enactment that permitted protective custody so that individuals could be taken into custody as a preventative police measure to avoid danger or security to the state, thus indefinitely suspending the rights of those so subjected (1988: 167). This willed state of exception is paradoxical in character as the “external and provisional state of factual danger” becomes “confused with the juridical rule itself” that inscribes the state of exception into the law (1988: 168). The state of exception is both inside and outside of the law – the exception is granted a permanent and visible localisation that becomes the norm (1988: 20, 174).

Agamben asserts that the logic of the state of exception is becoming generalised throughout society: “The birth of the camp in our time appears as an event that decisively signals the political space of modernity itself” (1988: 174). We find ourselves in the presence of a camp when a space is created where bare life and the juridical rule enter into “a threshold of indistinction” (1988: 174). In the camp the life of the citizen becomes reduced to bare life, stripped of political form and value, constituting the unpolitical. This passage is enacted when the political decision is made to exempt a juridical rule and the criterion of its application in response to threats to “public security and order” or a “state of danger” (1988: 121). This act of abandonment erases the legal status of the individual, producing a “legally un-nameable and unclassifiable being” (2005: 3; 1998: 174). As such all juridical concepts become indeterminate as the production of law and its application are no longer distinguishable moments (1988: 172-173). The police officer or civil servant making these decisions is no longer oriented to a rule or a situation of fact as these no longer have meaning as the political rights of those subjected to these decisions have been exempted. The very rights won by individuals against state power lay the foundation for the sovereign’s power to declare the state of exception (1988: 121). Those who make these decisions exist outside and inside the juridical order: “I, the sovereign, who am outside the law, declare that there is nothing outside the law” (1988: 15). In this indeterminate zone, exception and rule, licit and illicit, rule and application, fact and law, subjective right and juridical protection are indecidable, but are “nevertheless incessantly” decided upon (1988: 170, 173). Agamben comments: “The political system no longer orders forms of life and juridical rules in a determinate space, but instead contains at its very centre a dislocating localisation that exceeds it and into which every form of life and every rule can be virtually taken” (1988: 175).

In the control society, the biopolitical subject is subjected to surveillant inter-assemblages in which the exercise of power is “lighter, more rapid, more effective” (Foucault 1977: 209). Its networks of continuous surveillance render the distinction between the inside and outside obsolete as risk technologies de-territorialize the older inclusive modes of biopolitical normalisation. Within the surveillant inter-assemblage, there exists the potential for both inclusion and exclusion (Diken and Lausten 2002: 297). Earlier in this paper I described actuarial techniques as translating the “individual” into the logistics of codes and passwords for re-territorialization as a “dividual” within a risk flow and its determinate program of control. The ASBPP’s Consent Risk Assessment instrument is an extra-legal device for deciding on the state of exception by discerning the potentiality for “serious risk” linked to “the public interest”. The “referring (State) agency” uses this pseudo risk instrument to make a decisive “yes” or “no”. S/he need only tick one of these risks to nullify the principle of “the best interests of the child or young person” and her or his rights to privacy and confidentiality as well as the right and prerogative to choose to consent and actively participate within any subsequent risk case management with the participating control agencies. This act of discernment effectively renders the subject faceless and less than human, as the risk is judged to be so dangerous that the person is now considered not able to choose and act as a rational human being, thus situating them at the borders of civil society. When encamped in this way, the targeted young person initially remains free to move, however s/he is reduced to one aspect of being becoming a risk fragment, or in Agamben’s analysis, becoming “bare life”. The young person subjected to this politicization is the *object* of biopolitical normalisation (“a risky individual with complex needs”) and the *subject* of political power decisively made according to their “inclusive exclusion” (Agamben 1988: 9). The sovereign power of deciding the exception demonstrates a tight reciprocal grounding between law and biopolitical life as biopolitical norms are suspended without totally annulling the juridical order (Agamben 2005: 85). Situated within this extra-legal zone, the ASBPP’s procedures for granting an exemption blur the boundaries of exclusion and inclusion, outside and inside, life and politics, right and fact, power and emancipation for those young people so subjected.

The ASBPP’s exemptions reveal “petty sovereigns” who exercise power within an administrative panel, making discretionary decisions that are made without legitimate authority as orders enacted are not the sovereignty of a unified State power operating under the conditions of legitimacy that guarantees the

representative status of political institutions (see Butler 2004: 55-56, 94-98). The civil servant's decision to grant the exemption is a "lawless and prerogatory power, a 'rogue' power par excellence" (2004: 56, 71). By granting the exemption there is a convergence between biopower (or, the governmentalisation of risks linked to anti-social behaviour) and sovereignty as the politicisation of anti-social behaviour opens its governmentalisation to sovereign decisions about life. Sovereignty is exercised in the illegitimate decision to suspend the law and the self-allocation of legal prerogative by the administrative authority of CCSOG that institutes and enforces its own exceptional procedures. This effectively nullifies the state's own laws while paradoxically maintaining a relation with those laws (2004: 61). As the young person's legal protections are subtracted and the law withdraws from its usual jurisdiction, the biopolitical space that is opened up is an extra-legal field of rationalities and techniques that uses the law as a discretionary tactic in combating anti-social behaviour (2004: 60). The law can either be suspended or returned to for tactical use as an instrument in the surveillance and control of targeted and recalcitrant young people. Responding to phantasm-events of potential and actual threats and dangers, a highly discretionary, invigorated managerial power is performed that "reanimates a spectral sovereignty within the field of governmentality" (2004: 61-62).

Our contemporary hypervigilance about the anti-social has intensified ways of looking and judging in the name of security. The ASBPP signals a new threshold in the biopolitics of anti-social behaviour, which has the potential to enact the state of exception in any location within New South Wales and then encamp "risky" young people, case by case, when the individual risks identified become enveloped within a broader communal/localised political-affective climate of fear and insecurity. The project's designation of the anti-social behaviour of any particular young person as being a situation where serious risk is linked to "the public", binds the civil servant making this assessment to the politics of public safety/security, involving a passage into an indeterminate zone outside of the law's rules (Agamben 1988: 172). There is no distinction between fact and the law or between the potential for risks to public security and any actual event.

As described earlier, the prototype for the ASBPP was first enacted in Waterloo/Redfern, and was then extended to other Police Local Area Commands (Iemma 2006: 2230). These first exemptions were enacted after the Redfern riots in February 2004 and the subsequent series of inquiries into Thomas Hickey's death and the multifaceted issues it raised into the nature of Aboriginal/police relations, policing strategy and social disadvantage and governance, which need to be considered in relation to the continuation of colonial relations (Abernathy 2004; Standing Committee on Social Issues 2004a, b; Coburn 2004). The *Coburn Report* (2004) investigated policing matters relating to the riot as well as the broader security issue of the police force's capacity to respond to incidents of violent disorder anywhere in NSW. Cumulatively, these reports assemble a dismal picture of governmental failure, especially in relation to the over-policing and poor service provision for Aboriginal people living in the area. Waterloo/Redfern is located in close proximity to Sydney's central business district and the social tensions located in this zone of the city pose serious potential risks to Sydney's competitiveness as a global city. The Standing Committee on Social Issues final report into issues relating to the area concluded, that in order to secure a "sustainable future", a whole-of-government/whole-of-community far sighted strategic response was required that incorporated social inclusion, urban renewal, affordable housing and employment opportunity (2004b: 156-159). The divisive forces of social isolation and communal non-cohesion in the area ultimately posed a threat to economic competitiveness and prosperity as well as to law and order in the area.

Several of the fifteen Local Area Commands involved in the ASBPP have histories of strategic intervention after civil unrest, including Macquarie Fields after the social disturbance there in 2005 (see Standing Committee on Social Issues 2006). The most recent Local Area Command to be granted powers of exemption is Glebe, after the Mayor of the City of Sydney politicised the issue of "serious concerns about crime and safety in Glebe", including "regular reports of assaults and robberies associated with a

small number of residents in Housing NSW properties” (Moore 2008: 2973). In response the Premier stated that pre-emptive measures were being undertaken, including high visibility policing, the completion a safety audit, and the establishment of a local inter-agency case co-ordination group (part of the ASBPP, which had already identified fourteen young people for co-ordinated, intensive risk case management). Smoother, faster interventions become possible within an intensely securitised inter-assemblage, influenced by attractors and flows concerned with the total control of anti-social behaviour (Deleuze and Guattari 1987: 336-337). In this politicization of risk, we see how localised spaces within the sovereign state become elevated in importance in terms of securing, maintaining and defending sovereignty in the face of virtual threats that may or may not eventuate. Sovereign power reigns both as “as potentiality and as actuality” (Diken and Lausten 2002: 293).

At the moment privacy exemptions have been granted to fifteen Local Area Commands, however any locality in NSW can be incorporated into the ASBPP. The ASBPP incorporates “emergency provisions” that permit the restoration of the state of exception in locations that were once included within the project but have become suspended in situations where there is a riot, social disturbance or other occurrence that is decided as being a threat to public health or safety (Department of Premier and Cabinet 2009: 24-25). This includes situations of “public safety” where the actions of a young person are assessed as being a risk to others (such as health care professionals in an Area Health Service), and restores the state of exception for young people temporarily, permanently or habitually visiting scheduled locations. Furthermore, the Director of Operations within the Department of Premier and Cabinet can decide to manage any young person anywhere in NSW after a riot, social disturbance or other occurrence (2009: 24). And finally, future politicised events linked to local law and order issues have the potential to have new areas declared exempt so that the ASBPP can become operational. The state of exception, which was originally at the margins of the political order, has come to occupy a threshold “on which the relation between the living being and the *logos* is realised” and that decides upon the humanity of those lives that enter this political realm (Agamben 1988: 8-9). While norms and rights can be applied to the normal situation, the state of exception demonstrates that we all can become potential bearers of exposed bare life if we are named as a political threat to civil order. The exceptional measures of the ASBPP have become a paradigmatic technique of government.

Concluding comments: The total control of young people

Patricia Molloy (2002) has analysed the “teenager” as being an unstable discursive formation that repeatedly enters a zone of indistinction for an infinite number of decisive encampments. In Western culture, the teenager is constructed as existing within a gray zone located in between childhood and adulthood, belonging to neither. This is evidenced juridico-discursively as adolescents are defined in criminal justice codes as being “children” up to 18 years of age, and, in politics where “young people” are discursively framed in ways that exceed these juridico-discursive codes as being young people between the ages of 16 and 25 or as wilful and rational children under the age of 10 who know that they are breaking the law and that it is wrong. Young people are subjected to a series of arbitrary and paradoxical spatio-temporal orderings: “one has to be old enough, as opposed to mature or responsible enough, to get a driver’s license, to vote, to go to war, to drink... (they are attained) at different ages, 16, 18, 21...(and they are subject to) constantly shifting criteria” (Molloy 2002). This gray zone coincides with the state of exception, which must be incessantly decided upon for the young person sustaining the young person’s decisive localisation of being included as excluded. The politicization of young people’s anti-social behaviour has transformed and blurred these biopolitical assemblages and their spatio-temporal orderings further as it widens the orbit of governance to include children, young people, and young adults from the ages of 0 through to 25 whose biopolitical lives are no longer ordered within a determinate space, but rather within a extra-legal zone that has the potentiality to suspend and efface their lives indefinitely.

Molloy concludes that the biopolitical reality for young people is one where the teenager’s location within the zone of indistinction is intensified to the degree that the older biopolitical regime that deployed

discursive categories about “dangerous youth”, now “exceeds its own bounds” (Molloy: 2002). Her analysis is based on security measures made in the “post-Columbine age” re-constituted the normalising school assemblage as a “war zone” that pre-emptively deployed metal detectors, video cameras and armed guards in schools. School personnel, experts in law enforcement and psychiatry became involved in networked security measures that were co-ordinated by means of a computer program designed to identify and track potentially “dangerous students”. She argues that security has become permanently threatened by the possibility that any young person could potentially become a superpredator or violent criminal, marking a virtual reality that exceeds any particular spatial or temporal boundary, and consequently poses a profound limit to biopolitical action. In an analogous but more mundane way, the criminal justice system has been confronting this virtual possibility as it now perceives crime as commonplace, rather difficult to eliminate, and potentially something anyone might do (Garland 2001). It is within this virtual realm that we can situate the ASBPP. We are now witnessing the proliferation of risk suppression efforts with virtually no bounds that seek to control potential dangers as well as the flows of anxiety that both feed into and ooze from this permanent state of insecurity. It is within this enveloping phantasm-event, constitutive of a permanent crisis or an unbearable waiting, that the politicization of risk and security exacerbates more and more decisions of inclusive exclusion.

By nullifying the legal requirement for privacy and confidentiality and the juridico-discursive norm of consent, the ASBPP establishes a temporary state of exception for each young person taken into its networked and securitised case management of risk that can be suspended indefinitely. Those targeted by the ASBPP are subjected to “an order without localisation”, in which the law is suspended, that corresponds to a “localisation without order” which exceeds the law – a gray zone where lives are rendered something less than human and precarious (Agamben 1988: 175; Butler 2004). Encamped within this suspended extra-legal zone of rogue sovereign governmentality, we are witnessing the emergence of a new and stable spatial arrangement where “no act committed against (those reduced to this bare life) could appear any longer as a crime...(and where) everything (becomes) possible” (1988: 171). The war on anti-social behaviour is a battle without end where sovereignty seeks to manage anti-social populations outside of the law.

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