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Policing the Pandemic: Counter-mapping Policing Responses to COVID-19 across Canada

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Abstract

Policing agents have been positioned alongside healthcare professionals as central actors in the COVID-19 pandemic response. Provincial and territorial emergency powers enacted simultaneously across Canada mandated physical distancing rules and the closing of non-essential businesses and public services; interprovincial and international borders were closed, with a mandatory quarantine for recent travellers imposed. The Policing the Pandemic Mapping Project (PPMP) was initiated in April 2020 to track, visualize, and understand the scale and scope of pandemic enforcement in Canada. The project was started out of concern that ongoing racist and classist patterns of enforcement evidenced in other criminal justice contexts would only reproduce themselves in new ways in the COVID-19 context. Conceived as an exercise in counter-mapping, data-activism, and interlegal analysis, the central goal of the project has been to scrutinize the role of policing actors in managing situations of crisis and disease. This article provides an overview of the ongoing work of the PPMP, our theoretical grounding, methods, and findings to date. We also reflect on the limits of the project, particularly with respect to the kinds of insights and data analysis techniques that can be used on publicly sourced data about law enforcement. In the discussion and conclusion, we develop several avenues for future research and reflect more broadly on what it means to engage in counter-mapping and data-activism.

Introduction

In numerous countries throughout the world, from Canada to France to South Africa, police have been positioned alongside healthcare professionals as central actors in the COVID-19 pandemic response. As the pandemic began to take hold in Canada, in the early months of 2020, new and existing police powers were put into force to respond to the novel coronavirus. On March 21, in Québec City, a woman who tested positive for COVID-19 and had broken quarantine was arrested by public police. The same day Québec's provincial police force, the Sûreté du Québec, announced it had been granted a series of enhanced powers and a special operational unit to counter COVID-19, including the deployment of police officers to public health offices to collaborate on response efforts. Upon the announcement, Dr. Horacio Arruda, Québec's public health director, said: "As of now, it's clear we're going to constrain the people who do not respect the guidelines."¹ The following day, Federal Health Minister Patty Hajdu, during a debriefing on Parliament Hill, announced the Liberal government was considering enacting criminal penalties for people who disobeyed quarantine advice. She noted: "Let me be perfectly clear. We will use every measure in our toolbox at the federal level to ensure compliance ... we have measures that could include monetary penalties up to and including criminal penalties."²

States of emergency were declared in all Canadian provinces and territories by mid-April 2020, significantly altering the course of daily life. Municipal, provincial, territorial, and, eventually, federal emergency powers enacted across the country mandated physical distancing, the closing of non-essential businesses and various public services, the closing of interprovincial and international borders, and quarantine for recent travellers. With vague orders to "stay home" and "socially distance," many regions of Canada closed public parks, sports recreation facilities, and other amenities. In some jurisdictions, emergency legal measures deputized bylaw officers with the power to

¹ Retrieved on July 14, 2020, from: <https://montreal.ctvnews.ca/mobile/a-woman-who-tested-positive-for-covid-19-was-arrested-in-quebec-city-after-she-left-isolation-1.4862611?fbclid=IwAR2wjwS9qJL75XWw7R-ada-BV3cYmLaJAwYKqg5mVMpoq94QK5IKuIDe49w>

² Retrieved on July 14, 2020, from: <https://www.cbc.ca/news/politics/trudeau-house-returns-1.5506049>

enforce various public health orders. In some provinces, it was made legal for police and bylaw officers to ask residents for identification. Fines were touted as the primary means to coerce compliance with the new rules, with the potential of jail time indicated in many places in the event of multiple violations. A new citizen-based intelligence apparatus also soon emerged in many places throughout Canada to support the work of police and bylaw officers. So-called non-compliance “snitch lines” began to emerge across the country in an effort to manage 911 call traffic and bolster police intelligence via crowdsourcing. Across Ontario, health officials began regularly sharing a list of COVID-positive residents with police agencies in an effort to better track, surveil, and potentially punish them for alleged public health violations (Molldrem et al., 2020).

Alongside this web of provincial and municipal emergency and public health powers aimed at containing the COVID-19 pandemic, there have also been some efforts to criminalize various behaviours related to the new coronavirus disease (McClelland et al., 2020; Skolnik, 2020). In late March 2020, assault charges were laid after a man was alleged to have spit on an Ottawa police officer during an arrest. The man was alleged to have stolen a bike and attempted to evade arrest while claiming to be COVID-19 positive. In direct response to the spitting incident, police added the charge of assaulting a peace officer, on top of multiple other theft-related charges.

To help us better understand and scrutinize these new pandemic policing practices, we launched the Policing the Pandemic Mapping Project (PPMP), a Canadian data justice initiative that tracks and analyzes COVID-19 law enforcement practices across Canada using publicly available data sources. We use the concept of “policing” in the broad sense (Brodeur, 2010), intended to capture the “web” of public police, but also bylaw agencies and private security forces, tasked with pandemic policing in Canada. Whether it is public police agents that are primarily responsible for enforcing COVID-19 public health orders, bylaw officers, or private security agents varies by region of the country. Public police are the sole enforcers of the *Criminal Code* and federal *Quarantine Act*, while both police and bylaw officers handle the enforcement of emergency public health

law in many places (e.g., Toronto), and in at least one province — Manitoba — the private security firm G4S now in part handles the enforcement of provincial public health law alongside the police (G4S Canada, 2020).

This paper provides a preliminary overview of our tracking and analysis of these policing practices to date, an effort that is still largely unfolding, with particular emphasis on our theoretical grounding in notions of counter-mapping, data-activism, and interlegality, our digital tracking methods, and the avenues of inquiry our investigation opens up for future research. As our project remains a work in progress, this paper provides only preliminary findings and reflections. In the findings section, we limit our discussion to three major features of pandemic policing in Canada: monetary penalties, criminalization, and complaint-oriented policing.

Three further caveats are in order. First, we wish to note that we are not opposed to a state-led response to COVID-19. In fact, we believe it is the job of the state to implement measures to ensure all residents of Canada can realize health protections to address COVID-19, while also meeting basic subsistence needs. We are, however, opposed to many forms of criminalization, and are especially sceptical of the merits of relying on institutions like the police to address complex social problems such as the spread of communicable disease. The COVID-19 crisis is first and foremost a *public health* crisis, not a criminal justice one. As such, we understand the mobilization of policing agents in response to COVID-19 as a case of further “policification” (Millie, 2013) — that is, the expansion of police power into non-traditional roles that are better covered by other kinds of institutional actors.

Second, the data collected via our mapping initiative appear to have become less accurate and complete with time. Early in the pandemic, media and government reports on policing responses to COVID-19 were frequent, showing a wide range of regional coverage. As a result, the PPMP was able to undertake quantitative analysis of enforcement patterns. As policing responses to the new disease change and shift, their apparent newsworthiness fluctuates, and also may be more or less actively discussed in government

communications. A recent report by Canada’s Chief Public Health Officer titled *From Risk to Resilience: An Equity Approach to COVID-19* did not discuss police responses to COVID-19 even once (Canada, 2020). Although the PPMP is continuing to collect and analyze available data on policing responses to COVID-19 in Canada, we no longer have confidence in our ability to accurately approximate the total number of policing actions in a given region or the total number of fines given out. In this paper, we limit our discussion to general trends and events which we have obtained data on between April 1, 2020, and December 31, 2020, but make no claim to be able to accurately calculate totals with the data that we currently have.

Finally, much of what constitutes this pandemic policing environment is not new (Sheptycki, 2020). At first when we initiated the project, we sometimes used the phrase “the scaling up of new police powers,” a phrase we’ve come to realize was not entirely accurate. For one thing, not all of the ways that police are responding to COVID-19 are necessarily new. In some cases, like a police officer charging someone for threatening to cough on them during an arrest, this usually results in something like an assault charge, which is already a power that police have under the *Criminal Code* — it’s just being applied in relation to a new communicable disease. The same is true for things like COVID non-compliance snitch lines and the use of these citizen-initiated reports to guide predictive policing. These are certainly not new to the policing field; predictive technologies in policing have been on the rise for a long time, they are just being adapted, perhaps intensified, to respond to a new problem. Still, not everything that police are being authorized to do involves the application of old powers. Giving out fines to a group of people for standing too close to each other in a park, for instance, is a new power, granted under emergency legislation, and is not a kind of ticket we have seen before.

Policing the Pandemic Mapping Project Overview

The PPMP was launched out of a central concern that longstanding patterns of racialized police violence and inequality could be exacerbated by the COVID-19 public health crisis (Luscombe &

McClelland, 2020a). Could pandemic enforcement result in further harms to people made marginalized, including Black and Indigenous people, people living in poverty, as well as under-housed and homeless people? These communities already bear the brunt of mass surveillance, over-policing and over-criminalization in their everyday lives (Bruckert & Hannem, 2013; Crosby & Monaghan, 2016; Gordon, 2004; Khenti, 2014; Maynard, 2017; Monaghan, 2013; Owusu-Bempah & Luscombe, 2020; Proulx, 2014; Samuels-Wortley, 2019; Sylvestre, 2007). There is little reason to expect that the policing of COVID-19, involving an intensification and expansion of police powers and intelligence capabilities (Sheptycki, 2020), would not simply reinforce and amplify these existing patterns of inequality.

Through data collection and analysis, the project aims to bring to light patterns of COVID-19 policing interventions, to help understand who is being targeted, what justifications are being used by police, and how people who are made to be marginalized are being impacted. In doing so, we have sought to inform a larger conversation about the role of policing in society, to scrutinize public health and police collaborations, and to call attention to the many irreversible harms that could result from the criminalization of this particular communicable disease. There is no official government source providing a country-wide picture of enforcement actions related to the pandemic, a data deficit that will come as no surprise to anyone that studies criminal justice in Canada (Grant & Balkissoon, 2019; Owusu-Bempah & Millar, 2010).

Since its inception, the project has quickly grown into a “live archive” (Luscombe & Walby, 2017) of publicly accessible data on the emergent impacts of police responses to the pandemic that can be used by anyone, including activists, academics, journalists, and anyone else interested in analyzing, discussing, or debating the policing of COVID-19. The PPMP realizes these objectives via an interactive map and searchable database that are updated regularly with new COVID-related enforcement incidents across the country, as well as a map of COVID-related non-compliance snitch lines. All data are collected from publicly reported media articles, government publications and open data portals, police and city press releases, and the occasional social media post. As depicted in Figure 1, the

interactive maps can be thought of consisting of three major layers: map, metadata, and source (Figure 1).

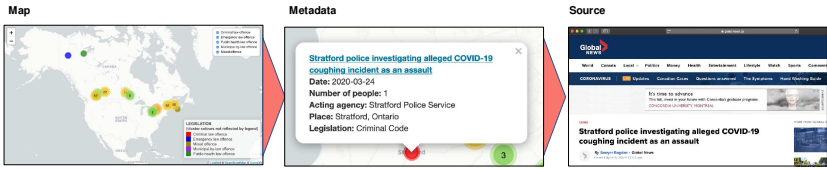


Figure 1: Three levels of the PPMP interactive map. Users navigate to areas of Canada they are interested in by zooming in/out, scrolling, and clicking clusters/markers. When clicked, individual geolocated markers display metadata about the enforcement event (data, number of people charged, arrested, and/or fined, place, and legislation). Users that click the hyperlinked event description are redirected to the source of the information in their browser (e.g., news article).

Theoretical Grounding

Theoretically, we understand the PPMP to be an exercise in counter-mapping, data-activism, and interlegal analysis. As Dalton and Stallmann (2018) point out, counter-mapping is a difficult concept to define, in part because it can take so many different forms in different contexts. Following Peluso (1995), who coined the term counter-mapping in 1995, we conceive of counter-mapping in the broadest possible terms, as an “intrinsically political act” (p. 383) with the potential to disrupt taken-for-granted power structures and ways of governing. As a form of data science for good, counter-mapping “involves map-making practices by those outside or on the margins of large, powerful institutions such as corporations or governments” (Dalton & Stallmann, 2018, p. 95). Counter-mapping works by mobilizing data visualization as a form of social critique, striving to visually inform and shape counter narratives to dominant understandings of an issue. Since Peluso first introduced the concept, counter-mapping techniques have grown in application around the world. Examples include the Anti-Eviction Mapping Project in San Francisco (Maharawal & McElroy, 2018), the Mapping Police Violence project (Mapping Police Violence, 2020), the Counter-Cartographies Collective (Dalton & Stallmann, 2018), and uses of counter-mapping by Indigenous activists across Canada (Eades, 2015). Modelled on these initiatives, the PPMP tracks, analyzes, and visualizes police responses to COVID-19 using mapping as a central

technique and means of conveying information and raising awareness about police responses to COVID-19.

We further conceive of the PPMP as a form of data-activism (Eades, 2015; Kidd, 2019), which we understand to be aligned with the practices of public criminology (Lumsden & Goode, 2018; McAleese, 2019; Piché, 2015). The larger goal of data-activism, as we understand it, is “to create knowledge about the world, denounce dominant representations, shed light on discrimination and injustice, and establish alternative social categories” (Kidd, 2019, p. 955). In this way, the notions of counter-mapping and data-activism share a natural affinity. In an effort to achieve these goals, we take a multipronged approach in the PPMP that goes beyond simply collecting and publishing data online (on the importance of a multipronged approach to data-activism, see Cinnamon, 2020). In addition to tracking and visualizing instances of COVID-related policing intervention, we provide ongoing analysis and written commentary, informed by literature in criminology, law, sociology, public health, and public policy (e.g., Luscombe & McClelland, 2020b). We make all reports free and publicly accessible and proactively disseminate these to journalists, politicians, activists, and others that we think could benefit from them. As an exercise in data-activism, the aim of the PPMP is to produce pandemic policing counter-narratives and to inform broader critical public conversations about the proper role and function of policing.

Finally, our counter-mapping is informed by the notion of interlegality (Santos, 1987). Through an interlegal analysis, we seek to understand how federal, provincial, and municipal legal tools (i.e., those which are regulatory, public health, emergency, and criminal), which are enforced through an array of institutional actors, interact and intersect with one another in potentially new and unexpected ways. The concept of interlegality was developed by Boaventura de Sousa Santos to examine the ongoing productive interaction and cross-over between heterogeneous legal systems operating simultaneously at various jurisdictional scales (Santos, 1987). In the COVID-19 context, there are rules aimed at everyone in society simultaneously, such as those regulating minimal gatherings, or the wearing of masks. There are also various legal orders aimed at

individuals deemed at-risk or recalcitrant, such as legal public health orders mandating self-isolation. Furthermore, there are criminal laws applicable to those alleged to have committed a range of COVID-related harms, such as assault or fraud.

Our project aims to track and make sense of the complex and fluid configuration and reconfiguration of COVID-related legal tools and enforcement measures as they are deployed across Canada. Interlegality orients our counter-mapping efforts, which entails paying close attention to the section(s) and law(s) being invoked in particular instances of COVID-19 enforcement and mapping these distinctions in a way that makes them visible. The frame of interlegal analysis helps us better understand the diversity of legal tools that have (or have not) been mobilized at varying jurisdictional scales as a means of policing COVID-19 rules and legislation. Interlegality also orients us to the life cycle of pandemic-specific legal tools, in particular where they first emerge, what other jurisdictions mimic them, and how they get revoked or replaced by other legal orders or measures. Finally, interlegality has been a useful means of orienting us toward potential instances of “charge stacking” (Emmer et al., 2020; Stuntz, 2011), particularly in cases of criminal enforcement where the charging officer chooses to layer on various public health violations in addition to criminal charges.

Method and Data

To collect data on COVID-19 policing enforcement, we rely on two major approaches:

- News articles and press releases collected using Google Alerts, a web crawling and notification service, set to a range of COVID-19/enforcement related keywords; and
- Ongoing web searches of government and police websites and social media accounts.

We count enforcement incidents from the moment they are reported, even if the event does not reach court, is dropped, stayed, or withdrawn. An enforcement incident can be a single instance of a

person receiving a fine for allegedly violating a physical distancing order, or it may be an aggregated account of numerous enforcement actions affecting many people. Of course, the sources we rely on do not capture every COVID-related enforcement action taken by police, bylaw, and private security officers in Canada. What our data provide are, at best, rough insights into broader trends and patterns in COVID-19 policing enforcement.

To date, the most widely available data have been media reports of enforcement actions. When a relevant media report is identified, we manually extract various data points, including the number of people involved, location, date, details about the alleged violation (e.g., non-compliance with minimal gathering rules, operating a non-essential business, not following mandatory 14-day self-isolation, etc.), the type of legislation applied (i.e., provincial emergency law, provincial public health law, municipal bylaw, criminal law, federal public health law), the acting agency (e.g., police force, bylaw agency, competition bureau, etc.), as well as any reported demographic characteristics about the people involved. If a monetary fine was issued, we collect information on the total cost of the fine. Once input into the project's interactive map and database,³ each enforcement entry appears as one marker, colour coded by legislation type, and geolocated using the most precise location-based information we have available.

If some, but not all, of the above data points are available in a report, the report is entered with missing data. To the degree possible, we always seek to verify media reports by triangulating them with other sources. Verifying information can include searching for the origin of reports of an enforcement incident, such as government sources. The process of verification happens over time as available media reports increase. In some cases, verifying information is not possible, as there is only one available media report on an enforcement incident.

In some jurisdictions, governments themselves have been providing daily or weekly updates on levels of enforcement via press releases or open data dashboards, but these sources are limited to only a handful

³ The map and database can be accessed here: www.policingthepandemic.ca

of places. Since the beginning of the pandemic, some police and bylaw agencies have issued public statements about the number of enforcement incidents, such as tickets issued, and warnings provided over a given holiday weekend. The City of Toronto, for instance, regularly reports limited data on enforcement in its daily COVID-19 briefings, along with numbers of new infections, information on new protocols and other response efforts.⁴ The Government of Québec also reports updates of COVID-related charges online. While these official sources are generally easy to access and may contain more accurate information on certain aspects of enforcement (e.g., the number of people ticketed) than news media articles, they come with their own trade-offs. The City of Toronto page on COVID-related enforcement, for example, contains no information about why people may have been fined (e.g., hosting a large gathering, walking through a closed park), and contains no information about the demographic characteristics of those who were in contact with police or bylaw officers. Newspaper articles, by contrast, tend to report more contextual information, though it too is limited.

In accordance with best practices in the emergent field of data-activism (Cinnamon, 2020; Kidd, 2019), we have made all of our data, code, and commentaries freely and publicly accessible to any member of the public. Widely sharing our data also has helped bolster the rigour of our data collection methods through the crowdsourcing of quality control. Making our data, code, and methods public has allowed scrutiny from peers, experts, and other stakeholders, which has helped to strengthen the dataset, and our ongoing methods of collection.

In the next section, we outline some of our preliminary findings and insights generated from the project so far, looking specifically at trends and patterns from data we have collected between April 1 and December 31, 2020. Our database currently consists of over 800 rows and 25 columns of data pertaining to thousands of enforcement actions. We focus our discussion of findings on three major aspects

⁴ Retrieved January 27, 2021, from: <https://www.toronto.ca/home/covid-19/covid-19-what-you-should-do/covid-19-orders-directives-by-laws/>

of pandemic policing in Canada: monetary penalties, criminalization, and complaint-oriented policing.

Findings

The following section outlines our findings from the project's tracking of COVID-19 enforcement between April 1, 2020, and December 31, 2020. Early in the project, particularly during Wave 1 (here defined as January 2020 – June 2020), we sought to roughly quantify the levels of enforcement taking place across Canada. We publicized our initial quantitative findings between April 1 – June 15, 2020, indicating that publicly-available sources have shown there were a minimum of 10,000 enforcement incidents across Canada, totaling 13 million dollars in fines (Deshman et al., 2020). While we are continuing to collect, verify, and analyze available data, we no longer calculate exact quantitative estimates of the levels of enforcement or the total costs of fines in particular regions based on the current methodology. A primary rationale for this decision, is that incomplete quantitative data on enforcement – due to fluctuations in the newsworthiness of the issue may risk *under*-inflating rates of COVID-19 policing in regions where there is very little coverage or available official data, and *over*-inflating such rates in regions where multiple conflicting sources exist, which are increasingly impossible to effectively verify (e.g., Québec).

Below, we reflect on some of the core findings of our project to date. We focus on three major components of pandemic policing in Canada: monetary penalties, criminalization, and complaint-oriented policing. In light of the above, all numbers that we report should be interpreted with caution and should not be taken as objective totals for any given region in question, but rather as rough proxies for more general trends. We also report on the specifics of various COVID-related enforcement incidents and developments across Canada, but from a more qualitative perspective.

Monetary Penalties

During Wave 1, Québec led the country with the highest number of COVID-related fines (at a minimum of \$1,550 per person).⁵ The exact number of fines which have been given out since Wave 1 in Québec has become exceedingly difficult to estimate. However, we suspect that Québec — based in part on data we do have — remains the country’s leader in COVID-19 monetary penalties, both in terms of the total number and dollar amount of fines. The provinces of Ontario and Nova Scotia follow Québec for the next highest total number of fines given out since the beginning of the pandemic. Compared to Québec, COVID-related fines in Ontario and Nova Scotia have been much smaller. In Ontario, the typical fine for an alleged COVID-related violation appears to be \$880. In Nova Scotia, most of the tickets we have obtained data on are priced at \$700. It is notable that major cities in all three of these provinces (Montreal, Toronto, and Halifax) launched COVID-19 “ticketing blitzes” early on the pandemic (Luscombe & McClelland, 2020a).

At this stage in the pandemic, we have obtained reports of COVID-related fines being given out in every province and territory. During Wave 1, the province of British Columbia avoided the use of COVID-related fines entirely. In June 2020, BC’s provincial health officer, Dr. Bonnie Henry, was internationally praised for their commitment to a public health–first approach (Porter, 2020). Since the ascendance of Wave 2 in the fall of 2020, police and bylaw officers throughout BC have turned to giving out fines, though to what exact magnitude is unclear. In our database, we have reports of over 100 people receiving fines in BC, ranging from \$115 to \$2,300 in value. Over half of these pertain to violations of large gathering restrictions (e.g., house parties). We have also documented COVID-related fines in BC pertaining to alleged violations of international travel restrictions, failures to wear a mask and/or physical distance in public, breaches of various business-related operating rules (e.g., allowing more than a government-ordered maximum number of customers in the store at one time).

⁵ Monetary fine amounts rounded to the nearest 10 for simplicity.

The size of COVID-related fines varies widely across the country. The upper and lower ranges we report here stem from actual reports we have obtained, rather than the letter of law, which so far includes much higher upper values than we have seen given in practice. With the exception of fines under the federal *Quarantine Act*, different provinces, territories, and cities have determined for themselves how much people and businesses caught with public health order violations will have to pay. As one might expect, fines have typically been larger for business-related violations than they have been for non-business-related ones. As noted, single fines in BC have ranged between \$115–\$2,300. In some cases, multiple fines have been given, such as in the case of a group card game in Kamloops, BC, where the host was given a \$2,300 fine by the Kamloops RCMP, as well as a \$230 fine for encouraging others to break public health rules, and another \$230 fine for allegedly acting belligerent toward responding officers. In neighbouring Alberta, fines documented by the PPMP have ranged between \$50–\$1,200 for non-business-related violations and upwards of \$1,500 for business-related violations. The province of Saskatchewan currently has one of the largest minimum fines in the country, priced at \$2,000. Fines in Saskatchewan that we have documented range from \$2,000–\$2,800 for individuals and up to \$14,000 for businesses. In Manitoba, we have seen fines for individuals ranging between \$300–\$1,300 and upwards of \$5,000 for businesses. In Ontario, fines for individuals appear to be pretty consistently priced at \$880 and upwards of \$5,000 for businesses. In at least one report in our database, a police agency in Ontario was contemplating fining 3 adolescents under the age of 20 upwards of \$10,000 each for throwing a large social gathering, although we do not know whether these fines were actually given. In Québec, fines for individuals have typically been \$1,550 and upwards of \$7,630 for businesses. In New Brunswick, the highest fine we have documented for both individuals and business operators alike is \$290. In Nova Scotia, fines for individuals have ranged between \$290–\$1,000, and as much as \$7,500 for businesses. In Prince Edward Island, where we have yet to document a fine going to a business, the cost has generally been \$1,000 per fine. Finally, in the territories we have documented fines in Yukon Territory and the Northwest Territories, although we have yet to see fines for businesses. In Yukon Territory,

the fines we have documented have come in at \$500 per person. In the Northwest territories, all of the fines we have received reports of have been \$1,720. In Nunavut, we have documented fines for businesses of \$2,870.

Clearly, these fines are not inexpensive. The above numbers do not include fines under the federal *Quarantine Act*, which we have documented as being most often \$1,000 per individual violation. Despite attempts by police representatives and politicians to downplay their significance by likening them to parking or jaywalking tickets, in most regions around Canada this comparison could not be further from the truth. In Québec, where the minimum COVID-related fine is \$1,546 (or \$1,000 plus fees), the potential repercussions are high. The average Montrealer pays less than \$1,546 per month in rent (Luscombe & McClelland, 2020b). When one factors in the massive spike in unemployment since the beginning of the pandemic (Canada, 2020), the act of further indebting someone with a \$1,546 fine is something that should not be taken lightly.

The exact reason that people are receiving these fines is difficult to decipher, particularly based on media reporting, which has become increasingly sparing in the amount of contextual detail it offers. Still, some evidence is available and does offer a limited window into the kinds of alleged violations that are leading policing agents to give out fines. The most common reason we have seen cited for giving these fines are failing to physically distance, being in a prohibited area (e.g., closed park), and participating in a large social gathering (e.g., house party). Collectively, these numbers are in the high thousands based on the data we have obtained, though we are reluctant to provide any exact estimation or breakdown given what we perceive to be increasing data quality issues. Since the onset of Wave 2, we have begun to see more fines for businesses and failures to wear masks in public.

Criminal Charges

Although, in general, criminal enforcement of COVID-19 has been rare, we contend that such practices must still be taken seriously. Even if one is not convicted, the mere act of being arrested and

potentially held in remand can lead to a loss of access to the means to realize one's health, wellbeing, safety, privacy, and security, and a loss of one's right to be treated with dignity (McClelland, 2019; Pelvin, 2019). If one is convicted, the negative repercussions for one's current and future life are even greater. A growing body of literature on the policing of another communicable disease — HIV — unambiguously documents just how serious criminalization is for people's livelihoods, but also how *ineffective* it is at actually resolving transmission and other related public health problems (Canadian HIV/AIDS Legal Network, 2019; Hastings, 2020; McClelland, 2019; McClelland et al., 2017; Mykhalovskiy et al., 2020a).

Although we cannot say for certain whether our database captures every COVID-related criminal enforcement incident that has occurred so far (it most likely does not), the comparative newsworthiness and lasting novelty of the criminalization of COVID-19 gives us slightly more confidence in the completeness of our numbers, compared to other kinds of enforcement like ticketing. In total, we have received reports of more than 60 people across Canada facing criminal charges related to COVID-19.

Spitting and coughing incidents make up the most common COVID-related criminal enforcement incidents, with our mapping documenting at minimum 20 people facing criminal charges for allegedly spitting or coughing on another person. Police and bylaw enforcement have alleged over half of the spitting or coughing incidents in our database. These charges seem to take effect mostly alongside other criminal charges, where police have initially undertaken an arrest for alleged crimes such as theft, drug possession or trafficking, or trespassing. Of these alleged COVID-related secondary offences, a majority are assault charges, including one aggravated assault charge, against an individual who allegedly spat on an RCMP officer. That individual's COVID-19 status was not reported to the press.

Spitting and coughing incidents can be the primary impetus for a criminal charge, where someone was arrested because they were alleged to have used the threat of COVID-19 against others in public.

These incidents make up less than half of spitting- and coughing-related criminal charges. For example, a man in Ontario allegedly coughed on money before giving to a convenience store clerk. Another man in Ontario allegedly spat on a dollar store employee. In British Columbia, a woman was alleged to have purposely coughed on a store clerk, upset about the rule restricting her to only buy a limited amount of tissues. These individuals are facing a range of assault charges.

From an interlegal perspective, many of these cases present instances where people have been issued violations under multiple legal tools simultaneously, such as being charged criminally with assault for allegedly coughing on an individual, and being issued a fine for being in contravention with the provincial public health act. There are two such examples, of interest, where people were charged with drug-related crimes, as well as a violation of the *Ontario Emergency Management and Civil Protection Act* for operating a non-essential business due to selling drugs deemed illegal. The broader implications of these incidents, such as whether certain instances of ‘mixed enforcement’ can be understood as instances of ‘charge stacking’ remains unclear.

There have also been some instances of non-violent criminal charges related to COVID-19. Non-violent criminal offences have generally involved allegations of mischief to property, such as licking or coughing on door handles, or food items in public places, fraud, or lying about one’s COVID-19 status. There have been several reports of individuals charged with COVID-related fraud charges under the *Criminal Code*. One person has been charged with fraud under \$5,000 in Toronto for selling fake COVID-19 testing kits. Another person has been charged in Ontario with fraud under \$5,000 for allegedly using a fake doctor’s note (stating they had tested positive for COVID-19) to avoid having to work. We have seen one report of an allegation of fraud against an individual related to CERB, though we anticipate this number will increase in the coming months.

It is also important to continually note that our knowledge is based on media reporting, usually at the time of or shortly after the event. We are unaware of actual prosecutorial outcomes in these cases.

Complaint-oriented Policing

Alongside various forms of COVID-related enforcement, the PPMP began to track COVID-19 “snitch lines,” which drive “complaint-oriented policing” (Herring, 2019) practices. Alongside the municipal, provincial, and federal governments’ attempts to control the spread of COVID-19 via monetary fines, a citizen-led surveillance and intelligence infrastructure has emerged wherein the state encourages residents to “snitch” on one another for perceived non-compliance with COVID-related regulations in numerous areas of Canada.

The notion of a snitch line — encouraging citizens to report instances of perceived deviant or unlawful behaviour — is not new in Canada. In the 1990s in Ontario, anonymous snitch lines were created, encouraging neighbours to report one another if they suspected welfare fraud (Chunn & Gavigan, 2004). In fact, our tracking of complaint-oriented policing began after engaging with sex worker rights advocates; with sex workers being a community who have been historically subject to snitching, reporting, and community-led surveillance and harassment. In April 2020, in Québec City, it was reported that the police received complaints via a snitch line about a local escort agency which had been alleged to continue operations during the pandemic. The Service de police de la Ville de Québec gave out tickets of \$1,500 to the agency for violations against the *Public Health Act*. With such a report, it was difficult to discern whether police enforcement was targeting specific communities, or if enforcement officers were merely responding to community forms of surveillance and reporting. As a result, we engaged with sex worker rights advocates, who encouraged the PPMP to track the phenomenon, as it became apparent that snitch lines and COVID-19 law enforcement were operating interdependently.

Most of the snitch lines we have obtained data on have been encouraging civilians to report on individuals and local businesses for perceived instances of public health order non-compliance (e.g., failure to physically distance, using amenities in a closed park, throwing a large social gathering). At this point, we have no idea how many jurisdictions throughout Canada are currently operating

COVID-related snitch lines. In many cities throughout Canada, particularly in Southern Ontario, municipalities have launched COVID-related snitches as separate initiatives from existing reporting infrastructure, while in others, local police and politicians have simply called on citizens to report allegations of COVID non-compliance to 311. The latter has been the case, for instance, in Vancouver, British Columbia, and Mississauga and Ottawa, Ontario. Since new initiatives are typically covered in the news, these have been far easier to track than instances of encouraging residents to simply use 311. There are at least two other snitch lines we have identified that are focused on COVID-related price gouging (a Government of Ontario initiative) and CERB fraud (a Government of Canada initiative).

Between late-March and mid-April 2020, reports of numerous online and/or phone-based COVID non-compliance snitch lines were announced by governments throughout Newfoundland, Ontario, Québec, British Columbia, Alberta, and Saskatchewan. The vast majority of the COVID-related snitch lines we have found reports of have been in Southern Ontario, suggesting there might be a kind of geographically localized “isomorphism” taking place (Powell & DiMaggio, 2012), with nearby municipalities mimicking one another’s policies. In Toronto, residents have been encouraged to report non-compliance via the city’s online portal, which contains three categories of report: unauthorized business remains open; non-compliance with physical distancing bylaw; and business suspected of price-gouging. Examples of what to report are also offered, which for unauthorized business remains open, are extremely specific: food buffets, barrierless karaoke rooms, oxygen bars, saunas, steam rooms, and bathhouses. These snitch lines were also launched in smaller municipalities, not just major cities. In Blue Mountains, Ontario, residents were encouraged by the mayor to call the town’s bylaw department to report “reckless and irresponsible behaviour, which puts the safety of our entire community at risk” (Edwards, 2020).

While the simple explanation for why governments have taken such an interest in encouraging COVID-related reporting via new snitch lines and 311, there is also an important pragmatic dimension to consider. Concerns about residents overwhelming central

communication lines (especially 911) with reports of COVID-related non-compliance have been cited by some jurisdictions when launching COVID snitch lines. Prior to launching its COVID-19 non-compliance web portal, a Montreal police official reported that 911 was receiving hundreds of calls from residents reporting people not complying with physical distancing rules. Concerned that this number of calls would only increase as the weather improved in the spring, they launched an online complaint form (Schwartz, 2020). A bold font warning on the City of Montreal’s online reporting form reads: “IMPORTANT: To report this type of situation, please do not call 911” (SPVM, 2020). In London, Ontario, the snitch line seems to have also been launched in this largely reactive way. As City of London officials stated about their phone and online snitch line, the goal is “to provide a single point of contact to help ease the demands on other community phone lines, including the Middlesex-London Health Unit and 911” (Taccone, 2020). But if this pragmatism is partly responsible for these snitch lines, governments certainly haven’t hesitated to capitalize on the new information gains. In at least two major cities in Canada — Edmonton, Alberta, and Regina, Saskatchewan — we have seen evidence that the police are using citizen allegations of COVID non-compliance to allocate police resources (Luscombe & McClelland, 2020c), as if volumetric differences in citizen reporting were a valid proxy for actual non-compliance “hot spots” (for an in depth and critical analysis of hot spot policing, see Sanders & Sheptycki, 2017). We suspect there are other cities throughout Canada doing the same.

While there are many reasons to be critical of the current emphasis on COVID-19 snitching practices, one major concern pertains to how these calls may simply amplify and further entrench pre-existing inequalities in policing enforcement. Who chooses to report and who gets reported on is not likely to be a random or equal opportunity phenomenon. By virtue of being more visibly alone, those who are homeless or who spend much of their time working in public spaces (e.g., food delivery drivers) are going to face a higher likelihood of being snitched on. This likelihood only increases when one factors in that precarious front-line workers, the homeless, sex workers, and others who do not necessarily have the privilege of staying inside

their private homes all day, have always faced the brunt of complaint-oriented policing.

Future Considerations and Questions

As we have sought to emphasize throughout, the PPMP is still very much a work in progress. As new information becomes available and as laws and policing practices continue to evolve, so too will the project, its findings, its methods, and its arguments. The PPMP is, in this sense, a *living* data repository that operates on the foundations of the *best* information available, while recognizing that the best information may change. To conclude, we reflect on various avenues for future research into questions pertinent to themes of justice, policing, and disease. These are questions that we hope the PPMP and the data and analyses it generates will be able to contribute to, questions which many scholars have already begun to grapple with (Dunbar & Jones, 2020; French & Monahan, 2020; Janković & Cvetković, 2020; Kouri-Towe, 2020; Mykhalovskiy et al., 2020b; Seyhan, 2020; Sheptycki, 2020; Skolnik, 2020; Wray et al., 2020). Specifically, we point to four avenues for future research: the interlegality of policing COVID-19; the efficacy of monetary fines; persistent data gaps, especially around issues of race; and opportunities and challenges in the uses of counter-mapping and data-activism for social good.

Interlegality

Orienting our counter-mapping efforts through the concept of interlegality has afforded us with an initial understanding of some of the ongoing productive interactions between heterogeneous laws and jurisdictional scales which are simultaneously mobilized to address COVID-19. Such an approach has ensured we capture some of the integrated outcomes that may result from intersecting legal tools. Through our initial analysis we have seen the application of varied legal tools from different jurisdictions applied simultaneously creating a patchwork of rules which vary across time, place, context, and jurisdiction. We have also witnessed how laws from municipal jurisdictions can come to be constitutive of laws in provincial

jurisdictions. Mandatory mask laws, for example, were first initiated at the municipal level, and adopted soon after by several provinces.⁶

Our use of the notion of interlegality has also drawn our attention to a great deal of unknowns. We still know little about how such legal tools interact, and how these interactions vary from one enforcement context to the next. In any given encounter, policing agents are faced with a series of decisions over which COVID-related laws and legal sections to apply. We have only minimal insight, however, into how these discretionary decisions are actually being made. Why, for example, is the federal *Quarantine Act* sometimes used to impose a self-isolation order, rather than a provincial law, or vice versa? There are also serious concerns about the potential for heightened “charge stacking” (Emmer et al., 2020; Stuntz, 2011), particularly in cases involving combinations of criminal charges and public health laws (McClelland et al., 2020, McClelland, 2019). More research, especially qualitative research, is needed to understand the complex intersection and productive interaction of pandemic legal tools.

There are also many unanswered questions about the processes of drafting and enacting the many COVID-related legal measures currently in effect across Canada. How do cities and provinces make decisions about the kinds of laws they pass? How do cities and provinces make decisions about how long emergency legal orders stay in effect? How is new pandemic legislation developed and passed? How does the effectiveness of emergency pandemic legislation get researched and evaluated by government policy

⁶ For example, the suburb of Montreal, Côte Saint-Luc, became the first municipality in Canada to legally mandate the wearing of masks for anyone entering city-owned buildings or local businesses. The city council passed the bylaw on June 1, 2020, allowing fines between \$100 and \$500 for businesses and individuals who violate the bylaw. Ottawa and Brampton made the wearing of masks mandatory on the cities’ public transportation systems. Toronto officials similarly announced that masks on public transit would become a requirement. Although Toronto officials ensured the public that that there would not be “mask police” in public spaces, they also explained that should an education-first approach fail, fines for non-compliance remained a possibility. Since then, many provinces have followed suit, making masks mandatory in all publicly accessible indoor spaces as part of provincial public health or emergency legislation requirements. What began as a patchwork of municipal bylaws, in many places has come to be mandated provincially. Legal tools from multiple jurisdictions continue to shape one another as the pandemic shifts and changes.

makers? The urgency with which most COVID-related laws have been created and enacted in Canada since the pandemic began has come at the expense of transparency, accountability, and public consultation and debate (Deshman et al., 2020). This does not mean, however, that answers to such questions are not still required as a condition of good governance and democracy.

The Questionable Efficacy of Monetary Fines

To date, monetary fines have been one of the major tools for policing the COVID-19 pandemic in Canada. Despite daily reminders from politicians that they are “following the science,” the use of monetary penalties to control the spread of COVID-19 is not evidence-based (Luscombe & McClelland, 2020b). In reality, there is virtually no existing research on whether the use of fines will actually work to stop people from breaking physical distancing rules, throwing large parties, or any other COVID-related public health order. Our research with the Canadian Civil Liberties Association, although anecdotal, suggests that enforcement of COVID-related monetary fines may be happening in arbitrary or overly technical ways that could have minimal impacts on deterring problematic behaviours or lowering actual rates of transmission (Deshman et al., 2020). During a series of “ticketing blitzes” in Toronto, Montreal, and Halifax in early April, many people appear to have been ticketed without even knowing they could be ticketed. Additionally, while several analyses do provide supporting evidence in favour of various lockdown measures at the policy level (e.g., school closures, mandatory mask requirements) (Courtemanche et al., 2020; Keller, 2021), it is important to remember that none of these studies take into account the role of policing and fine-based enforcement. The particular role that policing and enforcement play in ensuring compliance with public health orders is at best, unknown.

Questions for future analysis include undertaking a temporal analysis of the impact of enforcement measures on COVID-19 incidence in regions across Canada, though such an analysis would be extremely difficult if not impossible with currently available data. Furthermore, qualitative research with Canadians on the perspectives of COVID-19 monetary measures could provide insight into the potential deterrent

effects of fines. Finally, further research with people who have been subject to COVID-related monetary fines should also be undertaken, in order to garner insight into any (disproportionate) harms that may result from the practice. In many provinces, the fines one receives for violating public health orders are not cheap. In a context of rising unemployment (Canada, 2020) and continued threats of eviction, the potential harms of a large fine are very real and should be examined seriously.

Demographic Data Gaps

As noted at the outset, a major impetus for launching the PPMP was our concern, shared by many (Danielson, 2020; Jones, 2020; Mannoe, 2020; Maynard & Ritchie, 2020), that historically over-policed and marginalized populations could disproportionately face the worst of pandemic policing, receiving more fines, being more likely to get harassed for identification, and being further over-surveilled and over-criminalized. Based on a wealth of existing research in criminology, we had every reason to believe this would be the case, and still do. However, and this will come as no surprise to anyone familiar with criminal justice research in Canada (Owusu-Bempah & Millar, 2010), demographic data on race but also age, gender, and socio-economic status, has been extremely difficult to obtain with regards to the policing of COVID-19. We have collected a number of reports of homeless people, migrants, refugees, and Black and Indigenous people feeling unfairly targeted by police and bylaw officers across the country, but these data remain anecdotal (Deshman et al., 2020). Despite calls from numerous activists, academics, and journalists to collect and release racial and other demographic data on COVID-19 enforcement practices (Owusu-Bempah, 2020), we have seen little action from municipal, provincial/territorial, and federal governments. The Toronto Police Service and Toronto City bylaw have both explicitly *refused* to collect and release data about COVID-19 enforcement practices and race, without citing any reason why.⁷

⁷ Retrieved on January 15, 2021, from: <https://ipolitics.ca/2020/06/01/toronto-police-city-bylaw-not-collecting-data-on-race-when-enforcing-covid-rules/>

In other areas of the world where race-based data on police responses to COVID-19 have been made available, the findings have largely affirmed what we suspect to be true in Canada. The London Metropolitan Police released data indicating that Black and Asian people were more likely to be targeted and fined COVID-19 emergency laws than white people.⁸ The New York City Police Department similarly released racially disaggregated data on COVID-related enforcement, a *New York Times* analysis revealed that 81% of the NYPD's summonses related to physical distancing had gone to Black and Latinx people. The *New York Times* analysis further revealed that 35 of 40 people arrested by the NYPD for alleged physical distancing failures were Black.^{9,10} A recent report from the United States, which reviewed public information about enforcement over the past six months, found that Black, Indigenous, and people of colour were 2.5 times more likely to be policed for alleged COVID-19 violations than white people (Emmer et al., 2020). The same study found that Black people in particular were 4.5 times more likely to face COVID-19 enforcement actions than white people (Emmer et al., 2020).

In Canada, a demographic analysis may not be possible due to ongoing institutional data collection gaps. Without detailed, demographic data, we may not be able to determine the full extent to which police responses to COVID-19 reflected the same unequal patterns of enforcement documented in other contexts. With these data gaps our ability to grasp the problems of racist policing might be restricted. There are active debates over the collection of race-based data in the context of COVID-19 (Owusu-Bempah & Millar, 2010; James, 2020a, 2020b). Making communities visible through data

⁸ Retrieved on January 15, 2021, from: https://ca.sports.yahoo.com/news/black-asian-minorities-coronavirus-regulations-arrested-fined-london-085018157.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xllmNvbS8&guce_referrer_sig=AQAAAAYycDgaspK4tpwKKx9hns7jlQcx7sccK-bvrgKM_jRfrW3fSGZ-pukktbmlmqBd8b03xD0IiEUaboxOYSm6lW48KNrUYWp7ieoIR3AHgJE08w0QCZS0d1O_njX_4_eOknjd05-5rUNz9kfxDdBbbqQA7Rypdf2hZp-SaMZWAY

⁹ Retrieved on January 15, 2021, from: <https://www.newsweek.com/81-percent-nypds-social-distancing-summonses-were-issued-blacks-latinos-its-new-stop-frisk-1502841>

¹⁰ Retrieved on January 15, 2021, from: <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>

collection is a political process. While such data may help us understand who is most impacted by the pandemic, it can also be mobilized in harmful ways to stigmatize and pathologize Black, Indigenous, Asian, and other communities of colour. Race-based data could then be used to place the burden on people who have been made vulnerable by systems of oppression, instead of holding those systems to account, and directing much needed support to address inequity. In an online symposium focused on race-based data in the context of COVID-19, race and technology scholar Ruha Benjamin (2020) said, instead of collecting race-based data, “I would encourage colleagues in Canada to look at what it would mean to collect data on *racism*” (our emphasis).

Quantitative data is also certainly not the only means of bringing the realities of racist and classist patterns of enforcement to light. In-depth qualitative research with people who have faced forms of COVID-19 enforcement would be one way forward to begin to help understand demographic trends in pandemic enforcement. More sophisticated spatial analyses are also still possible (see, e.g., Laniyonu, 2018) using, for instance, a combination of census and geolocated enforcement data. As we discuss below, however, such an analysis would require obtaining more complete and disaggregated data on enforcement than we have managed to obtain using publicly available reports from the media and the government, such as through freedom of information requests.

Counter-mapping and Data-activism

By using mapping as an analytical device, the PPMP has revealed geographic patterns in COVID-related enforcement across Canada. It has allowed us to visualize regions which have relied more heavily on policing practices to control the spread of COVID-19, and regions which have not. Mapping has also allowed us to detect regional variations in terms of which legislative tools are being used by what agencies. Yet, mapping as a mode of visualizing data, is also highly limited. While mapping can involve uses of highly sophisticated spatial modelling techniques, our use of mapping is strictly descriptive. At best, our map provides only limited insight into the potential problem being documented, and it cannot provide an

understanding as to *how* and *why* the policing of COVID-19 in Canada has come to take the form it does today. More research is needed to help understand the socio-political and cultural reasons for COVID-related enforcement practices across Canada, and the disjuncture and disparity in reliance on forms of punitive and coercive public health enforcement in some jurisdictions, while not in others. Moving forward, there is much future analysis which can be done using the database constructed by the PPMP, particularly if one merges the existing data with other data sets, both qualitative and quantitative.

Another point we wish to raise concerns the source of the data itself, which at this time comes primarily from news articles and the occasional government data dump. As we have highlighted throughout, media reporting on COVID-related enforcement has become less frequent with time, and it tends to contain less contextual detail overall as well. The question of whether policing agents in a region of Canada are simply not enforcing COVID-related measures via arrests, charges, or fines, or how fluctuations in the newsworthiness of pandemic enforcement practices impact what we know, poses a major barrier to our data collection and monitoring efforts.

The quantitative trends we identified during Wave 1 were never more than rough estimates to begin with, and the same problems of under-inflation and over-inflation were no doubt present then, as they are now. But the situation has changed. When we launched the project, police responses to COVID-19 were only beginning to take form. Media reporting on COVID-related enforcement was extensive and government communications were frequent. As many cities across Canada began to mobilize policing agencies in response to COVID-19, our objective was to initiate a data-driven intervention that would put the lack of evidence in favour of policing disease on the political agenda and encourage policing agents and policy makers to reconsider their near immediate shift from an education-first approach to law enforcement in the first week of April 2020 (Luscombe & McClelland, 2020a). Since the end of Wave 1, not only has media and government reporting on the policing of COVID-19 lessened significantly, but the mood around the PPMP too appears to

have shifted. What began as an urgent attempt to encourage those in power to rethink their policing-focused policies now appears — at least in the eyes of many journalists — to have become a kind of citizen-led census bureau. Journalists across Canada now email us weekly asking for “the latest numbers” on their region when, in reality, we have the same question for them.

Although the over-inflation and under-inflation of total estimates was always a concern, the state of current reporting practices has only amplified it. This begs the question of how — in the absence of consistent and comprehensive media and government reporting — we can still continue to obtain (semi-)complete data. One alternative is to file freedom of information (FOI) requests under provincial and federal law (Walby & Luscombe, 2019), something that the PPMP is currently considering but we would also encourage others to take on as well. Using FOI law, researchers could obtain arrest and charge logs, occurrence reports, and other relevant data sources from police and bylaw agencies across Canada. However, going directly to the source in this way comes with its own challenges. Such an approach would not work for provinces like Manitoba, which have outsourced much of their pandemic enforcement activities to the private security company, G4S, which is exempt from provincial FOI requirements (G4S Canada, 2020). Administrative records logging the number of fines or the location of police-civilian encounters are only as detailed as policing agencies choose to make them. Compared to media reporting, they tend to include much less contextual information about why someone was fined, for example. This presents new potential challenges to the empirical analysis of pandemic policing in Canada.

Conclusion

We have provided a brief overview of the ongoing data justice and counter-mapping work involved in the PPMP, a Canadian data justice initiative we launched at the beginning of April 2020. The goal of this article has been to provide a broad overview of the project, focusing specifically on its theoretical grounding, methods, and preliminary findings to date. We have also pointed to four avenues for future research that we hope the PPMP and the data it generates

can assist with. The social consequences of positioning institutions of policing and punishment as central components in the government's pandemic response is still uncertain, and at this time our project opens up more questions than it answers. The only thing that is perhaps certain is that, as Sheptycki (2020, p. 169) reflects, "when it comes to the politics of policing and social order, nothing will ever be quite the same." We hope that this intervention will encourage others to make use of the data and insights we have generated and continue to generate. This is, after all, what counter-mapping and data-activism are all about.

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