

Map 1

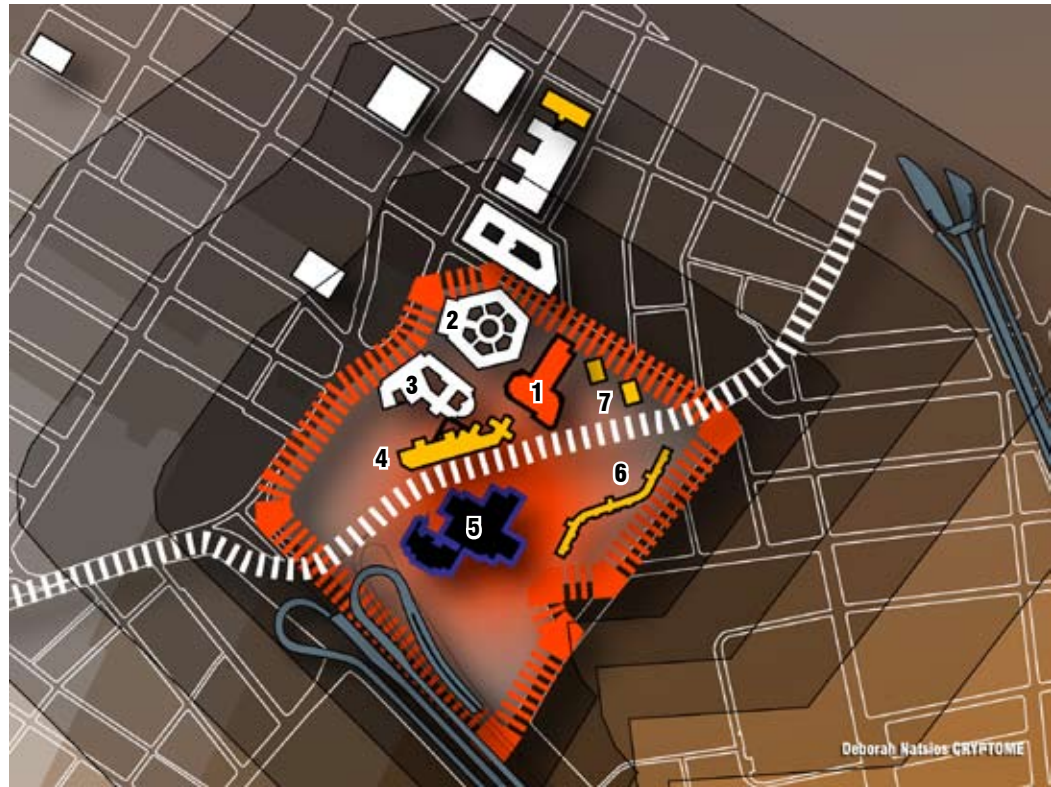
Overlapping infrastructures of lower Manhattan's persistent state of emergency: World Trade Center site (left) and One Police Plaza Security Zone (right).

New York VOIR DIRE: Interrogating the Juridical City State of Exception

Deborah Natsios / Cryptome

voir dire \,ˈvwär,ˈdi(ə)r\ n [AF, fr. OF, to say the truth, fr. *voir* true, truth (fr. L. *verum*, fr. neut. of *verus* true) + *dire* to say, fr. L. *dicere*]: a preliminary examination to determine the competency of a witness or juror
Webster's Third New International Dictionary

- 1** Daniel Patrick Moynihan US Courthouse
500 Pearl Street
- 2** Supreme Court of the State of New York
60 Centre Street
- 3** Thurgood Marshall US Courthouse
40 Centre Street
- 4** Metropolitan Correctional Center
150 Park Row
- 5** NYPD Headquarters
One Police Plaza
- 6** Chatham Green residential complex
164, 185 and 215 Park Row
- 7** Chatham Towers residential complex
180 Park Row



Map 1b 500 Pearl Street courthouse(1) surrounded by One Police Plaza Security Zone

INTRODUCTION

The Daniel Patrick Moynihan US Courthouse at 500 Pearl Street lies at the epicenter of a controversial proposal to try accused 9/11 perpetrators in the court system located mere blocks from Ground Zero.

A frequent venue for high-profile trials, the Moynihan federal courthouse serves the Southern District of New York, offering unique perspectives into the archaeologies and genealogies that underpin the production of justice in New York City's contested spaces.

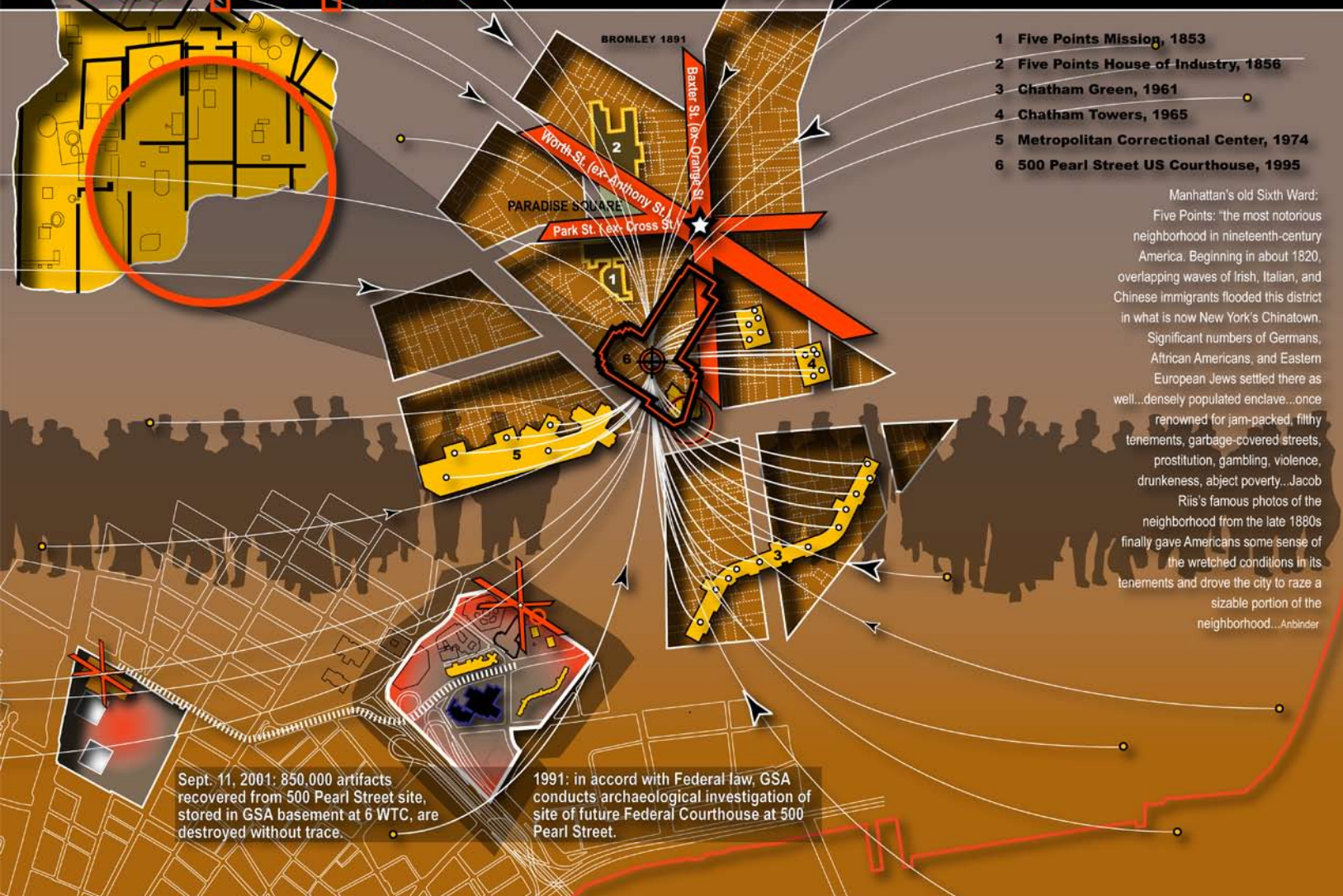
The courthouse is among juridical infrastructures enmeshed in the state of exception imposed after 9/11 by the NYPD One Police Plaza security perimeter. Such a persistent state of emergency invites an interrogation of the Civic Center's architectures of adjudication. Like *voir dire* itself, our inquiry examines the sustainability of impartial deliberations in an adversarial city.

Proposition 1

Nationalized rituals of grief have provided suasive scripts to legitimate the exceptional state of emergency prosecuted by the NYPD's militarized command, control, intelligence, surveillance and reconnaissance systems. The city's new boundary regimes will presumably rehabilitate national borders breached on 9/11. Emergency street closures, manned checkpoint booths, surveillance cameras and watch lists inscribe the state of exception as an addendum to the canon of American exceptionalism.

Proposition 2

It is the juror who *barely* meets three benchmarks for service who may offer compelling peer representation for the immigrant place of assembly's contra-sovereign occupancies. We identify this civic actor and testimonial geographer as the 'barely-juror'. This marginal juror's agency as a proxy for sovereign jurisdiction is informed by life experiences that map the port city's edgier zones: the borderlands of non-citizenship, non-language and non-law.



- 1 Five Points Mission, 1853
- 2 Five Points House of Industry, 1856
- 3 Chatham Green, 1961
- 4 Chatham Towers, 1965
- 5 Metropolitan Correctional Center, 1974
- 6 500 Pearl Street US Courthouse, 1995

Manhattan's old Sixth Ward: Five Points: "the most notorious neighborhood in nineteenth-century America. Beginning in about 1820, overlapping waves of Irish, Italian, and Chinese immigrants flooded this district in what is now New York's Chinatown. Significant numbers of Germans, African Americans, and Eastern European Jews settled there as well... densely populated enclave... once renowned for jam-packed, filthy tenements, garbage-covered streets, prostitution, gambling, violence, drunkenness, abject poverty... Jacob Riis's famous photos of the neighborhood from the late 1880s finally gave Americans some sense of the wretched conditions in its tenements and drove the city to raze a sizable portion of the neighborhood... Anbinder

Sept. 11, 2001: 850,000 artifacts recovered from 500 Pearl Street site, stored in GSA basement at 6 WTC, are destroyed without trace.

1991: in accord with Federal law, GSA conducts archaeological investigation of site of future Federal Courthouse at 500 Pearl Street.

Map 2

A collection of archaeological artifacts stored at No. 6 World Trade Center (lower left) was destroyed on September 11, 2001. Unearthed in 1991 during construction of a new federal courthouse at 500 Pearl Street (6, above) the objects presented a record of The Five Points, a 19th century immigrant district.

The FIVE POINTS of GROUND ZERO

Following the collapse of the World Trade Center's twin towers, the watchdog group Professional Archaeologists of New York City lobbied unsuccessfully to send a team to salvage relics from the still burning rubble.¹ The proposed rescue was not focussed on the detritus of post-modern world trade that had been compacted into an instant necropolis that would come to be known as Ground Zero. Instead, the archaeologists were seeking materiel from a pre-modern layer of the city's sedimentary history: 850,000 artifacts of eighteenth and nineteenth century provenance stored in the basement of the building at No. 6 World Trade Center, crushed when the North Tower imploded at 10:28AM on September 11. The archival objects unearthed in 1991 during site excavations for a new federal courthouse in lower Manhattan's nearby Civic Center had spent the decade leading up to the morning of the attack awaiting museographic interpretation and public display, in custody of the General Services Administration (GSA), the manager of federal properties.

poverty, wretchedness, and vice are rife enough where we are going now. This is the place, these narrow ways, diverging to the right and left, and reeking everywhere with dirt and filth

Discovered during subsoil surveys that preceded foundation work for the new courthouse at 500 Pearl Street, the archaeological trove re-interred in 9/11's inchoate catacombs had provided a quotidian record of The Five Points, nineteenth century Manhattan's preeminent immigrant neighborhood, long-since supplanted by Chinatown. During its heyday, the era's screeching moralists and raucous penny press condemned the district as an icon of urban degradation. Extracted from beds surrounding relict foundation walls of eighteenth and nineteenth century tanneries, tenements, saloons and privies -- the GSA collection of oyster shells, glass tumblers, tea wares, needles, thimbles, liquor bottles and spittoons² provided delicate ornamentation to such grimly over-crowded scenes sensationalized by Charles Dickens during his visit to The Five Points in 1842. A critic of industrialization's debilitating impact on cities, Dickens had declared: "Poverty, wretchedness, and vice are rife enough where we are going now. This is the place, these narrow ways, diverging to the right and left, and reeking everywhere with dirt and filth."³

The federal courthouse at 500 Pearl Street that rose in 1994 from the archaeological fill of 'America's first slum' would be named in tribute to another noted scholar of the urban condition: Daniel Patrick Moynihan, the intellectual and New York senator who had a profound impact on national domestic policy, not least in the contentious arena of urban distress. The Moynihan courthouse's Worth Street entrance abutted vestigial traces of The Five Points' eponymous pentagrammic intersection -- where streets once named Orange, Cross and Anthony had been erased by the city's irrepressible logics of urban metamorphosis. The new building's Worth Street facade overlooked relict traces of Paradise Square, the commons that was The Five Points locus of public assembly and centroid of its confrontational brand of street justice. The commons and its armature of intersecting streets had functioned as an emblematic and pragmatic machine for the production of street smarts, urban agitations and popular adjudications that, in the twentieth century, would attract Daniel Patrick Moynihan's scholarly and legislative zeal.

Myths of nation-building, immigrant desire and justice collided on The Five Points district's nineteenth century stage. After a substantial mid-century immigrant influx, virulent American-born nativists confronted the port city's newly-arrived Irish, German, Italian, Chinese and freed African-Americans. Ad hoc jury pools of vigilante nativism prosecuted nationalist classifications to demarcate worthy citizens from allegedly derelict immigrants and outlaws. The draft riots of 1863, the deadliest in US history, generated violent testimony for urban tribunals whose identity politics delimited sovereign boundaries for the emerging nation-state. Documented in the Bromley city atlases of the late nineteenth century, the slum's labyrinthine structures provided fissured spaces for the litigation of tribal justice, adjudicating fractious differences that attended the contentious processes of constructing national identity -- moored by the census, map and museum that Benedict Anderson locates as key architectures of nationalism's constituent "imagined communities".⁴

Chronicled in Herbert Asbury's 1928 novel *The Gangs of New York*, the Five Points ethos saturates film director Martin Scorsese's historical epic of the same name, released in 2002. The neighborhood's balkanizations are noted by the film's protagonist, Amsterdam, who in a voice-over describes the New York of the polemical mid-century period as "a city full of tribes and war chiefs."⁵ The film's final time-lapsed montage recapitulates the district's metamorphosis from immigrant enclave to a global city of networked mobilities, lingering on the World Trade Center skyline before portentously fading to black.

The New York City Charter obliquely recalled the turbulence associated with The Five Points in 1887, when, in Section §435(a) of Chapter 18, it granted plenary powers to the New York Police Department (NYPD), the nation's largest police force: "the members of such Force are hereby thereunto empowered, to especially preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages..."⁶ The empowering of the NYPD to regulate the 'dangerous assemblages' of immigrant districts was tempered by a collateral tradition of urban justice: theories of social reform advanced by nineteenth century remedial institutions like the Five Points Mission (1853) and Five Points House of Industry (1856) -- to which Daniel Patrick Moynihan was a twentieth century intellectual heir.

Immigrant photo journalist and muckraker Jacob Riis, author of the influential exposé *How the Other Half Lives: Studies Among the Tenements of New York*, was among reformers who advocated the eradication of the district's signature housing stock, promoting hygienic model tenements to supplant fetid, wood-frame rookeries. The Five Points is also discussed in Riis' later work, *The Battle with the Slum of 1902*, whose polemical title anticipates the dogmatic urban renewal movement of the 1960s, which geographer Stephen Graham has documented as a military-grade campaign of destructive "urbicide" targeting the American city.⁷

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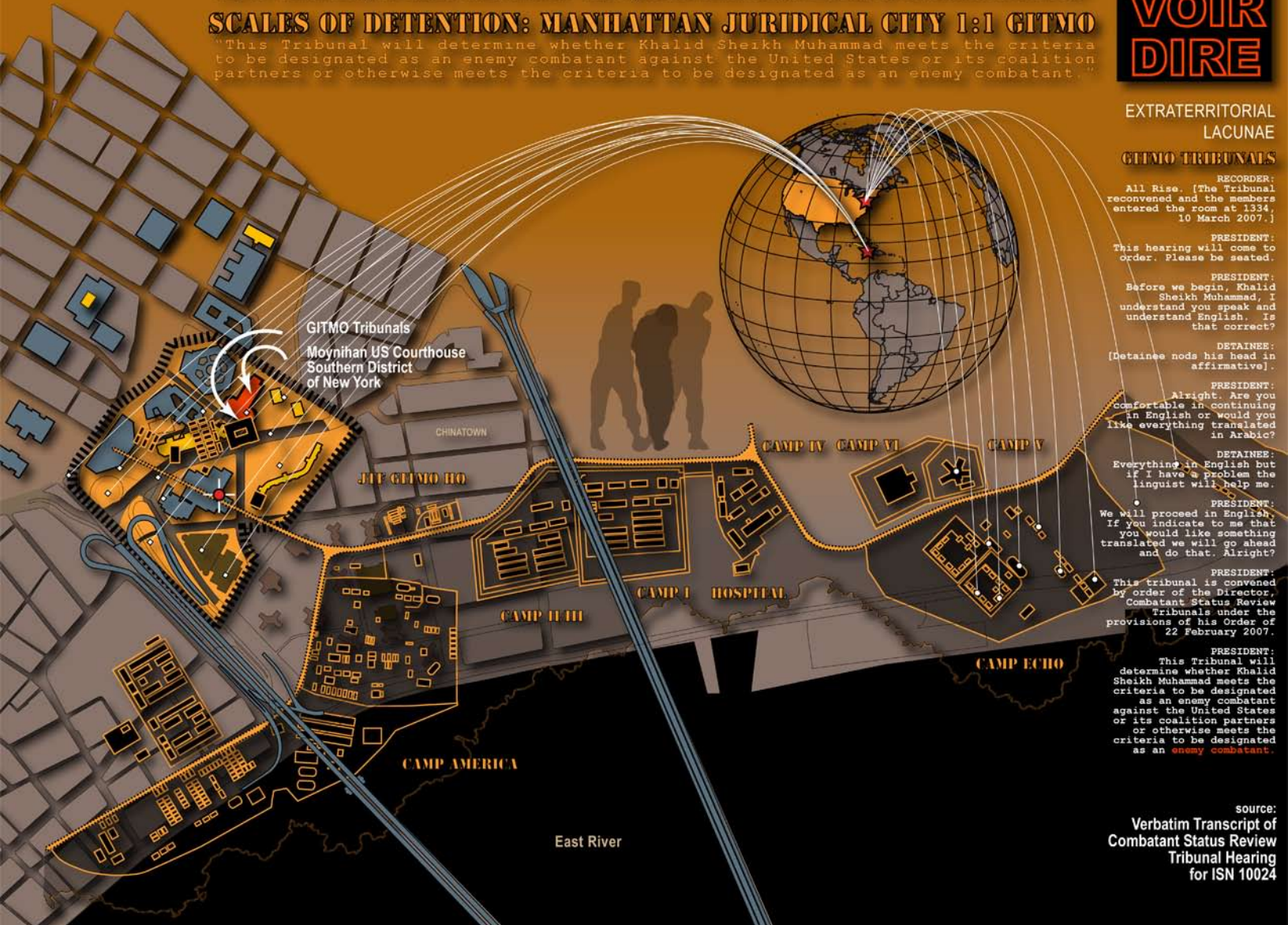
Notwithstanding the institutionalized righteousness of reformers, a popular legacy of immigrant urbanism, dense mixing, reciprocity and vocalizations flourished in the midst of the neighborhood's indicia of poverty.⁸ These precursors of a vibrantly inclusive, polyvocal, variegated urban life-experience helped frame a democracy proposed by the Fourteenth Amendment's insistence in 1868 on due process for all and equal protection under the law.⁹ The legacy of robust democratic debate is recapitulated in the modern trial system's *voir dire* process, when, with the objective of impartiality, prospective jurors are examined by adversarial legal teams before being chosen, or excluded, from being empanelled on juries that will go on to evaluate trial narratives and render justice.

Such is the material history narrated by 850,000 Five Points testimonies silenced in Ground Zero's pit on 9/11. No recognizable shard of the collection was ever retrieved from the devastated No. 6 World Trade Center building. Yet the legacy of the missing glass tumbler, teacup, thimble and needle continues to inform the 21st century's evolving historiographies of New York's city of immigrants. Rather than being erased from the historical record, the lost artifacts instead suggest as yet unwritten archaeologies, genealogies and museographies for lower Manhattan. They invite ongoing *voir dire* interrogations of the production of justice in the adversarial port city.



SCALES OF DETENTION: MANHATTAN JURIDICAL CITY 1:1 GITMO

"This Tribunal will determine whether Khalid Sheikh Muhammad meets the criteria to be designated as an enemy combatant against the United States or its coalition partners or otherwise meets the criteria to be designated as an enemy combatant."



EXTRATERRITORIAL LACUNAE

GITMO TRIBUNALS

RECORDER: All Rise. [The Tribunal reconvened and the members entered the room at 1334, 10 March 2007.]

PRESIDENT: This hearing will come to order. Please be seated.

PRESIDENT: Before we begin, Khalid Sheikh Muhammad, I understand you speak and understand English. Is that correct?

DETAINEE: [Detainee nods his head in affirmative].

PRESIDENT: Alright. Are you comfortable in continuing in English or would you like everything translated in Arabic?

DETAINEE: Everything in English but if I have a problem the linguist will help me.

PRESIDENT: We will proceed in English. If you indicate to me that you would like something translated we will go ahead and do that. Alright?

PRESIDENT: This tribunal is convened by order of the Director, Combatant Status Review Tribunals under the provisions of his Order of 22 February 2007.

PRESIDENT: This Tribunal will determine whether Khalid Sheikh Muhammad meets the criteria to be designated as an enemy combatant against the United States or its coalition partners or otherwise meets the criteria to be designated as an enemy combatant.

source:

Verbatim Transcript of Combatant Status Review Tribunal Hearing for ISN 10024

Map 3

Scales of Detention: Juridical and extra-juridical apparatus of Manhattan and Guantanamo contrasted at the same scale.

BEAUTIFUL CITY

The sovereign power of the state extends to all the subjects of government within its territorial limits; that secures the protection of every legal right and the punishment of every public offense. The agency by which this power is administered is that of the courts; they are created by the State; the State determines the territorial limits of each, and also prescribes the various subjects over which each shall have jurisdiction.

Joseph Hardcastle Vance, 1890

Jurisdiction: its exercise in commencing an action at law

The peculiarity of American institutions is, the fact that they have been compelled to adapt themselves to the changes of an expanding people -- to the changes involved in crossing a continent, in winning a wilderness, and in developing at each area of this progress out of the primitive economic and political conditions of the frontier into the complexity of city life.

Frederick Jackson Turner, 1893

The Significance of the Frontier in American History

Artifacts that had inflected the subsoil geology of the Daniel Patrick Moynihan US Courthouse were absent witnesses on November 13, 2009, when the Obama Administration announced that self-professed masterminds of the 9/11 attacks would be tried in New York City, the target of their coordinated strikes. Khalid Sheik Mohammed and four co-conspirators would be extricated from the extra-territorial legal status of their indefinite detention in the offshore prison camp at Guantanamo Bay. Their proposed re-territorialization into legal terrain would be filtered through jurisdictional processes within the Moynihan courthouse itself, a well-secured complex with some 44 courtrooms and 42 judicial chambers which had provided a civilian context for other so-called terrorist trials, adjudicated without incident.

Few observers were aware that the re-territorialization of detainees would be undergirded by the courthouse's archeology of evocative discursive foundations. Seminal debates on the status of the citizen, immigrant and outlaw litigated during The Five Points experience of nineteenth century nation-building were about to be revived in the context of border practices still being negotiated in the name of the 21st century nation-state. America history of anti-urban animus, driven by an origins thesis that privileged the ex-urban frontier as the key armature of national identity, rarely acknowledged the complex urban border-making integrated into nation-building processes.

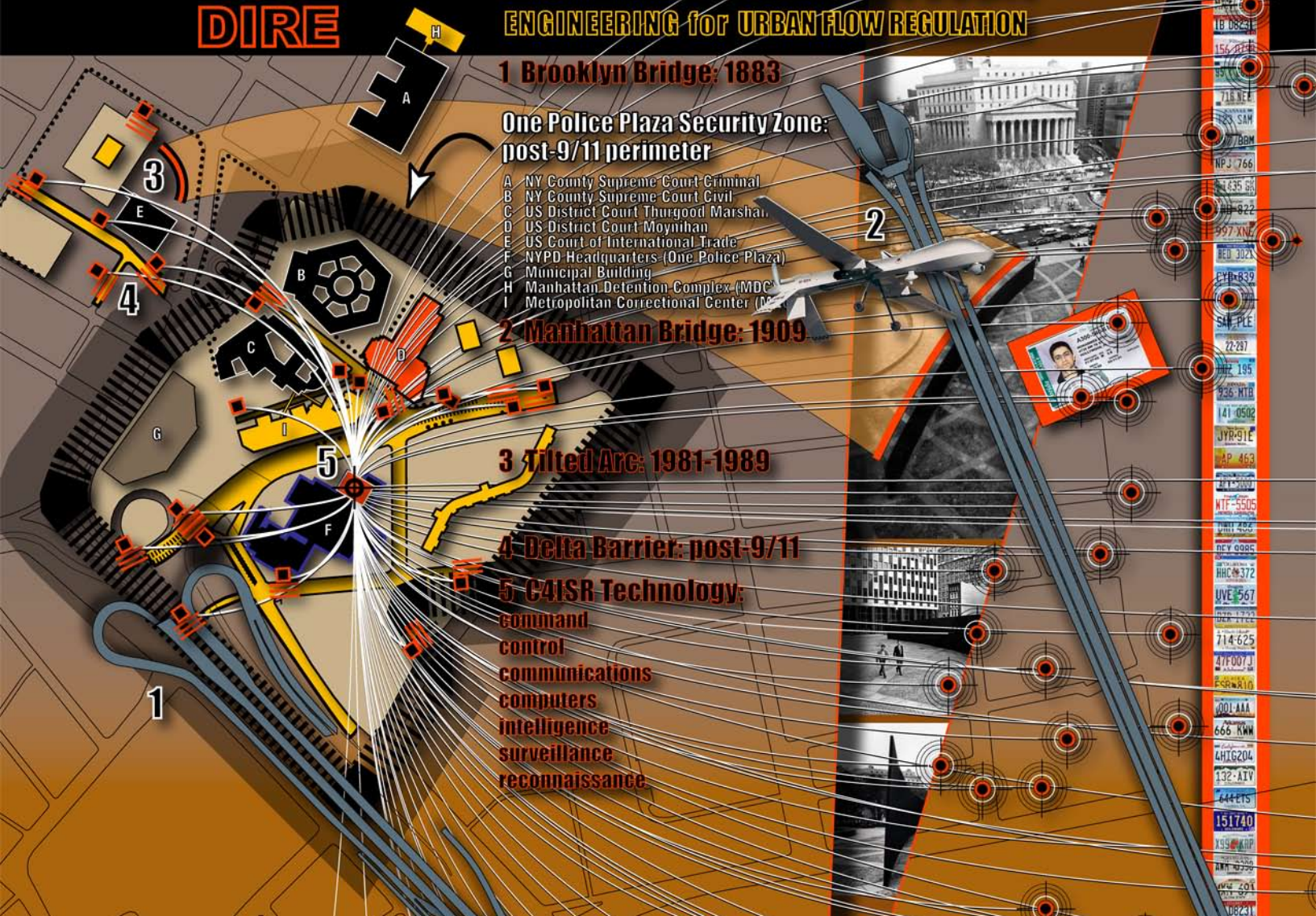
Clad in panels of somber gray granite, the 27-story, 974,000 square-foot Moynihan courthouse designed by the architectural firm Kohn Pederson Fox was a recent addition to Manhattan's century-old Civic Center. If Guantanamo's ad hoc shacks of chain link and coiled razor wire were abject icons of globalization's disposable extra-territorial sites, Manhattan's heroic juridical city, by contrast, affirmed the state's will to territorialization mapped through the court system's geographies of jurisdiction.

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the civic triumphalism of City Beautiful's scale and imagery may have cowed the immigrant rag tag, but police powers endowed by city charter to regulate 'dangerous assemblages' provided the iron fist behind classical architecture's semiotic mystifications

The post modern Moynihan's classicizing profiles deferred to existing emblems of juridical virtue, a milieu of architecture and urban design derived from notions of civic-mindedness promoted by the turn of the twentieth century City Beautiful movement. Springing from the incandescent architecture of the White City modelled for Chicago's influential World's Columbian Exposition of 1893, City Beautiful's grandiose aesthetics and Grand Manner urbanism were mobilized to address the *fin de siècle* crisis of America's disordered immigrant metropolis. Historians attending the 1893 Exposition had been told that settlement patterns demonstrated that the American frontier was effectively closed. New paradigms for national expansion and territorialization were imminent. In American cities, European classicism's imagined golden age was summoned to ennoble the post-frontier state's territorializing interest instrumentalized through court jurisdiction. The monumental certitude of Corinthian capital, acanthus leaf and rotunda embellished the Roman classicism of Moynihan's venerable neighbors: the New York State Supreme Court at 60 Centre Street (Guy Lowell, 1913-27) and the Thurgood Marshall US Courthouse, a Classical Revival skyscraper at 1 Foley Square (Cass Gilbert 1933-36).

The civic triumphalism of City Beautiful's scale and imagery may have cowed the immigrant rag tag, but police powers endowed by city charter to regulate 'dangerous assemblages' provided the iron fist behind classical architecture's semiotic mystifications, as Khalid Sheik Mohammed and his associates would discover should they be brought to justice in the adversarial city. Following attacks against the World Trade Center in 1993 and 2001, a new calculus assessed risk to categories privileged as 'critical' among the global city's matrix of complex infrastructures, mapping a threatscape inscribed in multiply-nested scales of the local, regional, national and global. Designated as critical anchors in the production of justice, the Moynihan courthouse and its two classicizing neighbors had become enmeshed in a latter-day security theater mobilized from the adjacent headquarters of the New York Police Department (NYPD) at One Police Plaza. The suasive emblems of policing had superseded acanthus, volute and narrative frieze to confirm the courts' agency in the administration of state sovereignty.



1 Brooklyn Bridge: 1883

One Police Plaza Security Zone: post-9/11 perimeter

- A NY County Supreme Court Criminal
- B NY County Supreme Court Civil
- C US District Court Thurgood Marshall
- D US District Court Moynihan
- E US Court of International Trade
- F NYPD Headquarters (One Police Plaza)
- G Municipal Building
- H Manhattan Detention Complex (MDC)
- I Metropolitan Correctional Center (MCC)

2 Manhattan Bridge: 1909

3 Tilted Arc: 1981-1989

4 Delta Barrier: post-9/11

- 5 C4ISR Technology:
- command
- control
- communications
- computers
- intelligence
- surveillance
- reconnaissance

Map 4

One Police Plaza Security Zone circumscribes NYPD headquarters (5), three state and federal courthouses, a municipal building, a church, a detention facility, two housing complexes and a public high school.

Security theater parlays the drama of future risk as a preemptive script for city history. The coordinated regime of security discourse, practice and technologies centered on NYPD headquarters referred to as the One Police Plaza Security Zone was established in 1999 and further hardened after 9/11. Delimited to the west by Centre Street -- and along Worth Street to the north, Frankfort Street to the south, and St. James Place and Pearl Street to the east -- the enclave abuts the heavily trafficked ramps of the Brooklyn Bridge's Manhattan anchorage.

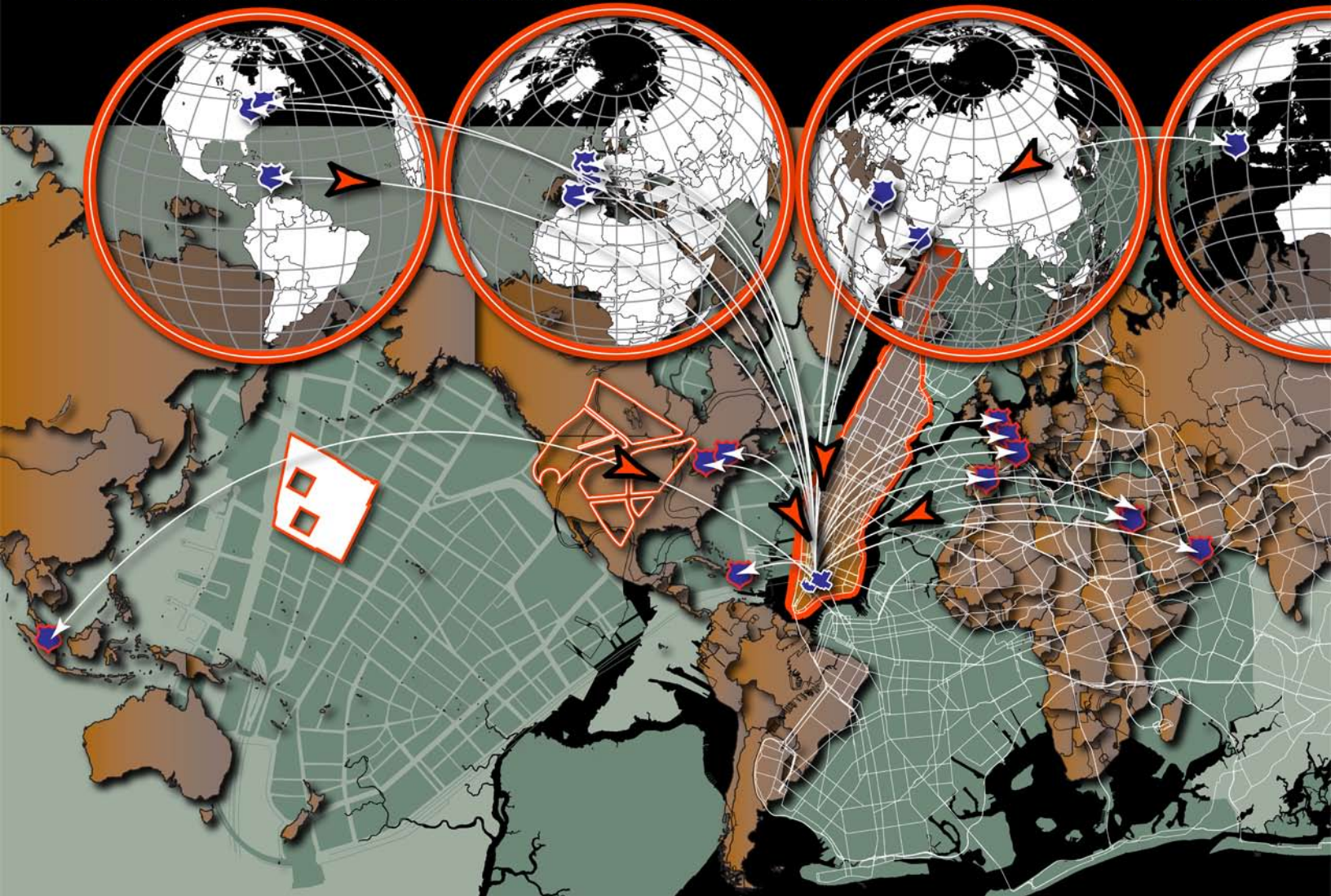
Manned by the NYPD and the US Marshal Service that provides security for federal courts, the superbloc-scale formation's checkpoint booths function as boundary markers to truncate vehicular flows that fuel the insatiable city. Enforced by armed guards and barrier engineering, the zone's prohibitions against public vehicular traffic signal the intent to regulate the city of dynamic mobilities. Debris typical of New York's neglected districts has accreted along the police camp's support spaces, littering the windswept security architecture of peeling concrete curbs, abandoned crevices, and already-rusting metal parts.

NYPD MONTREAL, TORONTO, SANTO DOMINGO

NYPD LONDON, PARIS, LYON, MADRID

NYPD TEL AVIV, AMMAN, ABU DHABI

NYPD SINGAPORE



Map 5

The NYPD International Liaison Program has installed officers in police counterterrorism programs in at least ten overseas cities.

Slated for completion in 2011, the vaunted high-tech bunker of the NYPD headquarter’s 24/7 Joint Command Center anchors the security zone’s core counter terror apparatus.¹¹ Wired for local, regional, national, and global reach, it has been designed to anticipate risk through the coordination of militarized command, control, computers, intelligence, surveillance and reconnaissance capabilities -- acronymized in military parlance as C4ISR. Nested security perimeters of increasing scope emanate from the superblock core defined by street closures, manned checkpoint booths, hydraulically-operated delta barriers, sally ports, jersey barriers, license plate readers, bollards, reinforced planters, surveillance cameras and explosive trace detection systems that surround NYPD headquarters and three adjacent courthouses. Scaled up into lower Manhattan’s more diffuse ‘Ring of Steel’, a digital web of real time captures from security cameras, license plate readers and mobile roadblocks -- the C4ISR apparatus is networked into 76 police precincts distributed throughout New York City’s five boroughs. The local security assemblage culminates in the global scale of an international liaison program which has embedded NYPD officers in counter terror police units in at least 10 overseas cities, including Montreal, Toronto, Santo Domingo, London, Paris, Lyon, Madrid, Amman, Tel Aviv, Abu Dhabi and Singapore.



NYPD International Liaison Program : MONTREAL, TORONTO, SANTO DOMINGO LONDON, PARIS, LYON, MADRID TEL AVIV, AMMAN, ABU DHABI SINGAPORE



Map 6
NYPD Joint Command Center is slated for completion in 2011. The high-tech bunker will be wired into 76 police precincts distributed throughout the city's five boroughs, as well as overseas liaison offices.

CODES of ASSEMBLY

Discourses on public safety have been nationalized since 9/11, scaling up the local building code's risk calculations, not least those relating to places of immigrant assembly whose flows bypass sovereign systems and jurisdictions. New York City's Building Code of 1850 and Tenement House Law of 1901 began to address the sanitary crisis and incendiary risk of immigrant mobilities transiting through the flimsy wood-frame stock of overcrowded enclaves like the Five Points. With new contra-sovereign circuits being mapped by global diasporas, the 21st century's actuarial computations require novel forms of emergency management and interdiction of the place of immigrant assembly's constituent inflows as well as outflows. Just as the actuarialism of fire and building codes anticipate combustion and structural failure, so too embedded sensors now regulate inflammatory symbolic production: cross-border homilies, textual readings, exhortations, debates and communications generated within the place of immigrant assembly's social, religious and political frameworks.

they are instrumentalized, deployed by tactics of power they do not control, but this does not stop them from using power, and using it to reanimate a sovereignty that the governmentalized constellation of power appeared to have foreclosed. These are petty sovereigns, unknowing, to a degree, about what work they do, but performing their acts unilaterally and with enormous consequence ¹²

Dangerous assemblages regulated by police plenary powers implicate, by definition, the *place of assembly* category of urban space defined in Title 27, Subchapter 8 of the New York City Building Code, a component of the city Administrative Code authorized by New York State. The potentially insurgent gesture of a collectivity congregating in the space of assembly is thus acknowledged by statute. Invoking public safety, the local code's risk-management clauses include section 27-526, which prohibits situating a place of assembly within 250 feet of an occupancy containing explosive contents. Code requirements call for special permitting, fire-resistant rated construction, capacity limitations and seating plans subject to official review and approval. Stringent exiting sequences govern the number and location of means of egress, travel distances thereto, and openings through which flows of the assembled multitude will debouche from interiority to safe areas of code-compliant exterior refuge during an emergency.

Globalization's inherent contra-sovereignities require that code-compliance officers who certify conformance in places of immigrant assembly -- the licensed architect, building inspector and fire marshal -- be supplemented by sensing and reporting protocols of next-generation border-flow agents. The new undercover informant and agent provocateur are to be reinforced by a seminal bureaucratic actor who performs self-important border theater, characterized by philosopher Judith Butler as the "petty sovereign."¹²

Just as 1000X magnification cameras mounted on the bellies of the NYPD's high tech helicopters may track the traffic channeling through suspect places of assembly from above, from a distance of over a mile, covert infrastructures collect from below. Mobile sensing systems generate a fractal multiplicity of dynamically-changing mirror cities modelled from statistical abstractions and encrypted data flows, data-mined to track the pattern-making of insurgent mobilities. The digital city's border practices target places of immigrant assembly, producing watch lists to enforce sovereignty's distinctions between subject and outlaw,¹³ between structural integrity and the cascading infrastructure failures that geographer Stephen Graham describes as characteristic of the 'disrupted city.'¹⁴ Such anticipatory practices underwrite the politics of preemption and risk as a practice of governing explored by geographers Louise Amoore and Marieke de Goede.¹⁵

Flows channeling through risky places of immigrant assembly are modeled by the digital Domain Awareness System (DAS) produced by One Police Plaza Security Zone's sensing and reporting architectures. DAS algorithms shape raw data collected through the matrix of manned checkpoint booths, hydraulically-operated delta barriers, surveillance cameras and license plate readers into risk theory's digitized urban geography of watch listed data-deviants and condemned no-go zones. As a "government-funded public/private partnership"¹⁶ the DAS implicates commercial participants like the New York Stock Exchange in red-lining new geographies of deviance.

Subjectivities inscribed in DAS databases are commodified by NYPD intelligence and counterterrorism operations considered the gold-standard by other US and overseas law enforcement agencies.¹⁷ David Cohen, a former career Central Intelligence Agency official who created the NYPD intelligence division after 9/11 and is its first Deputy Commissioner of Intelligence, continues to maintain close ties with the CIA. Consistent with actuarial frameworks for policing the risk society, Cohen once served as a political risk underwriter for the since-downgraded global insurance giant AIG. At NYPD, Cohen's calculations of political risk link the global city's scale of neoliberal interests with the NYPD's vaunted disregard for jurisdictional borders, bypassing the national state's turf wars and embedding detectives in police counter terror units in overseas cities.

Homilies, textual readings and exhortations that cycle through places of immigrant assembly will be mined by the NYPD intelligence unit's renown cultural component: hundreds of highly skilled linguists, many foreign-born, with proficiency in over 45 languages, drawn from New York's targeted immigrant communities.

NYPD Public Security Privacy Guidelines issued in 2009 defend the DAS, citing "policies and procedures to limit the authorized use of the Domain Awareness System and to provide for limited access to and proper disposition of stored data."¹⁸ Standards have been established for the gathering, storage and archiving of data, video, metadata, Licensed Plate Reader (LPR) data, and environmental data -- including terms for collateral data usage, incidental use, secondary use, data sharing, and unauthorized access of stored data.

no person will be targeted or monitored by the Domain Awareness System solely because of actual or perceived race, color, religion or creed, age, national origin, alienage, citizenship status, gender, sexual orientation, disability, marital status, partnership status, military status, or political affiliation or beliefs¹⁹

the Domain Awareness System will be used only to monitor public areas and public activities where no legally protected reasonable expectation of privacy exists

NYPD guidelines declare that controversial facial recognition technology will not be deployed, and that the security zone DAS “will be used only to monitor public areas and public activities where no legally protected reasonable expectation of privacy exists.”¹⁹ But any distinctions between outside and inside have been degraded in a domain already saturated by state databases and statistics. Civil society watchdogs are not assuaged by the NYPD’s definition of what constitutes “legally protected reasonable expectation of privacy.” The New York Civil Liberties Union argues that with electronic privacy laws not updated since 1986, “policy has not caught up to technology or to the reality of our lives.”²⁰ It can be assumed that the DAS has already fully colonized the putative boundary that separates public from private.

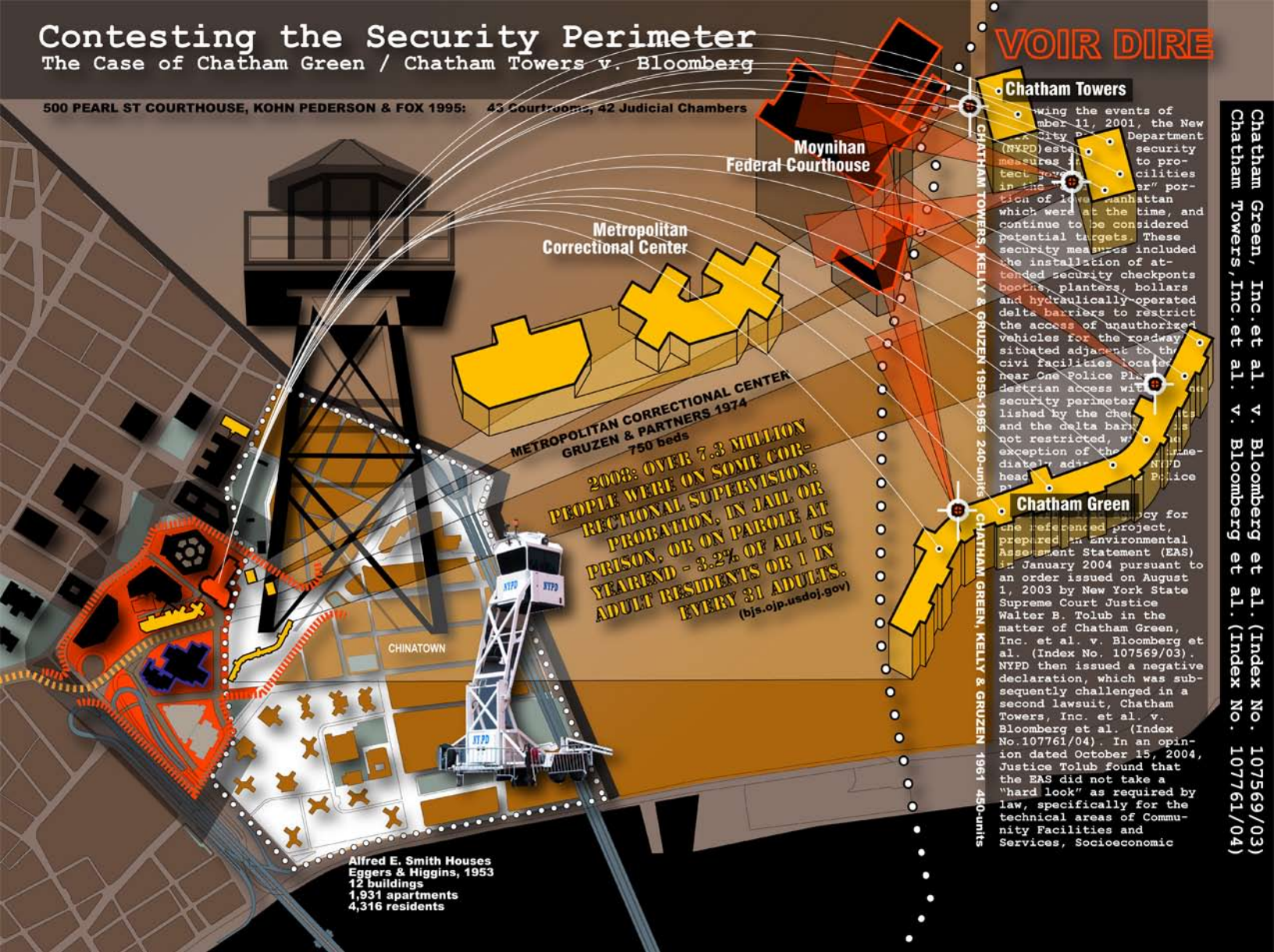


Contesting the Security Perimeter

The Case of Chatham Green / Chatham Towers v. Bloomberg

VOIR DIRE

500 PEARL ST COURTHOUSE, KOHN PEDERSON & FOX 1995: 43 Courtrooms, 42 Judicial Chambers



Map 7
Two middle-income housing complexes -- Chatham Green (1961) and Chatham Towers (1965) -- filed lawsuits in 2003 and 2004 to challenge their locked-down status within the post-9/11 police security zone.

A CASE for the CHATHAMS

A new chapter was appended to the unresolved historical narrative of Five Points artifacts lost on 9/11 when, in 2003 and 2004, lawsuits challenging the restrictive practices of the One Police Plaza Security Zone were filed against New York City. By dint of existing urban design alignments, Chatham Green and Chatham Towers, two Chinatown housing complexes, found themselves effectively locked-down within the NYPD security perimeter. Apartment residents, many of Chinese ancestry, argued that ID searches, checkpoints, pop-up barriers, street closures and prohibitions imposed against civilian mobilities constituted an illegitimate police occupation of their neighborhood. Some litigants complained of a racist subtext in the NYPD's treatment of the minority immigrant population.²¹

WHEREAS in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof...

Legacy architectures embedded in lower Manhattan's post-9/11 security zone document recurring themes of urban punishment and control that anticipate the early 21st century's regnant counterterrorism meme. Materialized in immigrant slum archaeology, reformist housing, police headquarters, courthouse and detention facility -- archival fragments lodged within the geopolitical space of the NYPD security camp inscribe a genealogy for maligned places of immigrant assembly captured within disciplinary infrastructures.

The Chinatown neighborhood's historical record tracks a pattern of anti-immigrant recision. In 1882, the US Congress introduced the Chinese Exclusion Act calling for a moratorium on Chinese labor immigration and restrict granting citizenship to Chinese resident aliens, an act extended in various forms until 1943. Landmark legislation cited a specific immigrant group for the first time, underscoring its ethnic indictment with a security argument that invoked the 'good order' of localities: "Whereas in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof..."²²

In 1908, the Chinese-American owner of a cigar store located at 500 Pearl Street, the future site of the Moynihan courthouse, saw his citizenship and voting rights summarily revoked by order of the courts. William A. Hang was disenfranchised despite having lived in America some fifty years, with the added distinction of having served honorably in the Federal fleet under Admiral Farragut, including during the notable Civil War Battle of Mobile Bay.²³ In Hang's case, anti-immigrant exclusions provided sufficient cause to rupture what was traditionally recognized as a sacred link between citizenship and those who had rendered military service in defense of the nation. The Exclusion Act's overarching characterization of the cigar store owner as a threat to the locality's 'good order' trumped Hang's documented contributions to the national security of the Union during wartime. Almost a century later, Hang's cigar store would be gone, but the Moynihan US Courthouse at 500 Pearl Street that replaced it would continue to litigate issues of aliens and outlaws implicated in next-generation threats to good order.

Exclusionary restrictions provoked a migration of West Coast Chinese to New York City in the 1880s,²⁴ and Chinatown eventually supplanted the Five Points neighborhood with its own vibrant street life. By 2000, the intricate mosaic of noodle shops, import stores, sidewalk vendors, Asian markets, Buddhist temples and modest domiciles centered on Mott, Bayard, Pell and Chrystie streets supported a population of some 53,000 Asians.²⁵

Relics of the southern border of The Five Points were finally consigned to urban memory when Chinatown's Chatham Green and Chatham Towers middle-income housing complexes were completed in 1961 and 1965, respectively, by design of the Kelly & Gruzen architectural firm. Built upon the miasmatic sedimentations of razed immigrant rookeries, the 'green' and 'towers' cued by the buildings' nomenclature reveal modernist origins in mid-twentieth century tower-in-the-park social housing paradigms. Such housing innovations in Manhattan's Lower East Side had been mobilized by the condemnation of the previous century's immigrant slums by the exposés of influential reformers like Jacob Riis.

Kelly & Gruzen architects summoned modernist strategies of European origin to delineate the two middle-income housing schemes, deferring to an orthodoxy that advocated spatial containment and zoned isolation of housing as a hygienic critique of the port city's dank immigrant spaces. The 450-unit Chatham Green of 1961 was a serpentine slab with innovative exterior galleries modelled after Swiss architect and urbanist Le Corbusier's utopian Plan Obu for Algiers of 1931, filtered through the Pedregulho housing project completed outside Rio by Alfonso Eduardo Reidy in 1947.²⁶ The twin pairing of the adjacent 240-unit Chatham Towers completed in 1965 also reprised signature formulations of Le Corbusier's utopian prototypes. These were executed with Brutalism's signature celebration of raw surfaces of poured concrete, imprinted with vestigial grained patterning of wood form work used during the construction process.

When, in the post-9/11 era, the Chatham residents mounted a challenge to the police security superblock's monolithic scale, they effectively rejected the modernist premise of zoned isolation that had spawned their housing blocks, calling instead for the reintegration of the complexes into the teeming granularities of adjacent Chinatown. The lock-down of Chatham Green and Chatham Towers within the NYPD perimeter presented a special case of what sociologist Loic Wacquant has explored as the broader trend of prisonization of social housing that necessitates and elicits the "deployment of an intrusive and omnipresent police and penal

**Great cities are not like towns, only larger.
They are not like suburbs, only denser.
They differ from towns and suburbs in
basic ways...**

apparatus”.²⁷ The Metropolitan Detention Center, a pre-trial detention facility also located within the post-9/11 NYPD zone provided a prototype for such carceral technologies and practices.

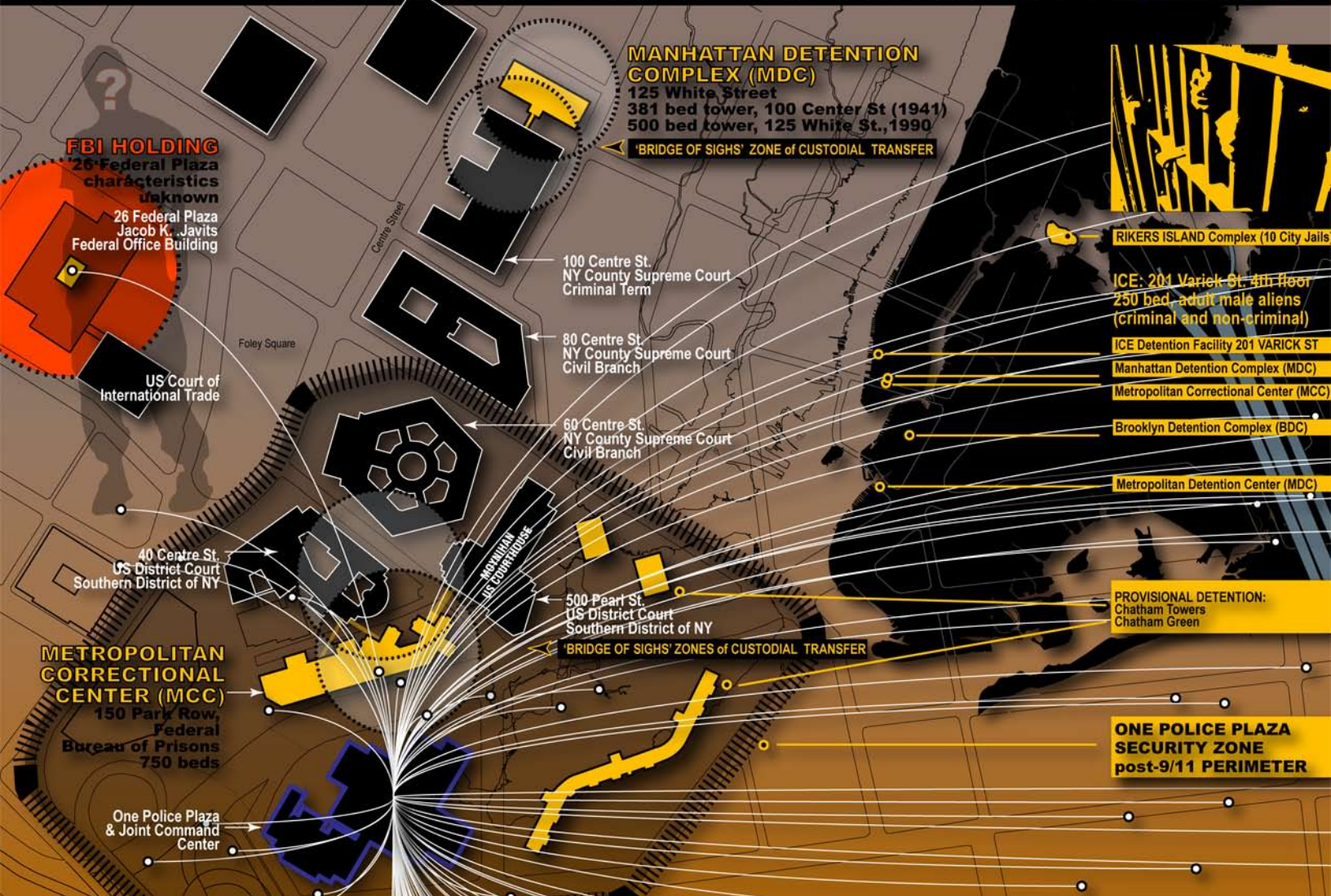
If modernism’s zoned isolation facilitated tactics of urban prizonization, the legal strategy deployed by the Chatham litigants invested in a countervailing urban paradigm understood as liberatory. Their legal tools advanced a contestatory model for the immigrant city that was grounded in the granularities of the Environmental Impact Statement (EIS) authorized under NY State Conservation Law. The EIS format constructed the complexly layered grassroots city as an urban ecology. In privileging categories like ‘community facilities and services’, ‘socioeconomic conditions’, ‘neighborhood character’ and ‘pedestrians’, the EIS recalled the polis celebrated in *The Death and Life of Great American Cities*, a treatise by activist journalist Jane Jacobs published in 1961, the year Chatham Green was completed.

The EIS evoked Jacobs’ influential critique of 1950s modernist urbanism, which commended the street life of immigrant neighborhoods as an example of community cooperation, where beneficial surveillance by concerned adults made a salutary environment for children at play.²⁸ Jacobs recommended unslumming, rather than the removal of former slums. She celebrated the city form despite the postwar trend of American suburbanization, declaring “great cities are not like towns, only larger. They are not like suburbs, only denser. They differ from towns and suburbs in basic ways...”²⁹

The Chatham lawsuits revived the alignments of Jacobs’ vibrant, bottom-up city to challenge the top-down imposition of the NYPD security armature. In so doing, the legal challenges also paid tacit homage to Chinatown’s Five Points legacy as a grassroots immigrant neighborhood, providing a fitting postscript for the Five Points artifacts destroyed on 9/11 while awaiting interpretation and public display.

The courts acknowledged in 2008 the Chatham litigants’ claim, concluding that the city’s imposition of the NYPD security zone had not properly considered all environmental impacts.³⁰ The legal victory was modest, however. The desired substantive reintegration with Chinatown fabric yielded only minor mitigations: increased public bus access and new landscaping amenities to compensate for littered streetscapes closed to vehicular traffic and isolated from vibrant city life.





Map 8
The 1970s custodial turn in US penal practice produced the world's largest prison population.

WAREHOUSE NATION

Models for social housing and benevolent correction illustrated by the Gruzen firm's Civic Center work of the 1960s were largely abandoned by the 1970s in favor of so-called justice typologies programmed by a punitive national script. A century after reformist philanthropic works undertaken by the Five Points House of Industry, Five Points Mission and Jacob Riis, architectures of remedial urban change were to be superseded by law-and-order discourses and practices focussed on the retributive containment of demonized Others. A custodial turn in US penology displaced occupants from geographies of urban marginality to a rapidly expanding national network of warehouse prisons.

advanced marginality, i.e., the novel regime of sociospatial relegation and exclusionary closure ... that has crystallized in the post-Fordist city as a result of the uneven development of the capitalist economies and the recoiling of welfare states...³⁶

NYPD security zone antecedents can be tracked to the addition in 1973 of a critical typology to the politically-connected Gruzen firm's neighborhood portfolio. The completion that year of an imposing red brick cube at One Police Plaza provided the NYPD with a new state-of-the-art headquarters that would become the eventual epicenter of the city's post-9/11 counter terror apparatus. By 1974, Gruzen had also completed the Metropolitan Correctional Center (MCC), an innovative detention facility linked to the Civic Center's federal courthouses by sky walk and underground passage. With small group living units focused on treatment and rehabilitation, the 750-bed federal detention facility housing male and female pre-trial and holdover inmates was lauded as the national state-of-the art of humane prison design.³¹

Just as US Cold War containment theory militarized a series of proxy frontiers to demarcate Us from Them at the scale of the bipolar globe, the mass relocation of maligned ethnoracial groups reflected internalized border practices effected at domestic scale. New border regimes delimited sovereign boundaries for the imagined community of suburbanized postwar America -- the sanitized locus of the atomic age's white nuclear family. The ethnic cleansing of US cities of undeserving ethnic and racial groups produced the world's largest prison population, increasing the incarceration rate by almost 500%,³² while carceral housing emerged as the nation's premier subsidized residential program.

Gruzen's transition from designers of utopian housing projects to architects of law-and-order apparatuses was symptomatic of the mid-1970s period. The post-9/11 NYPD security perimeter that circumscribes the collection of Gruzen projects from the 1960s and 1970s represents a culmination of ideas about urban regulation explored in the firm's twentieth century portfolio.

Tower-in-the-park urbanism had already become an exhausted symbol of housing hygiene by the time the Chatham projects were completed in the mid-1960s. Urban historian Richard Plunz points out that the discovery of penicillin in 1929 eventually rendered obsolete the medicalized argument for light and ventilation that was central to tower-in-the-park symbolism and morphology.³³ Moreover, the towers' strategies of isolation and containment multiplied the effects of urban alienation, exacerbating social pathologies, some argued, through inadequate support of family 'territoriality' and beneficial surveillance.³⁴ Critic Paul Goldberger points out that the middle-income Chatham Towers enclave was doomed for lack of "linkages to overall neighborhood fabric that might have rescued it from the status of a "project".³⁵

The utopian project of modernist housing had thus been reduced to ‘the projects’ -- the *hyperghetto* bearing stigmata of ‘territorial infamy’ that sociologist Loic Wacquant argues are the effects of state projected onto the city. Wacquant’s analysis of the historical matrix of class, state and space locates the iconic hyperghetto in “advanced marginality, i.e., the novel regime of sociospatial relegation and exclusionary closure (in Max Weber’s sense) that has crystallized in the post-Fordist city as a result of the uneven development of the capitalist economies and the recoiling of welfare states...”³⁶

Michael Hallett argues that the business model of for-profit prisons that emerged during this period commodified minority bodies and thrived on recidivism.³⁷ Hallett notes that after 9/11, immigrant groups presented new areas of profitability as immigration and customs enforcement practices made sub-contracted federal facilities the largest growing sector of the private prison system, with an increase of 40% between 2000 and 2003,³⁸ just as the Bureau of Immigration and Customs Enforcement (ICE) had grown into the nation’s second largest federal investigative agency.³⁹

Among ICE’s detention facilities are 186 unlisted and unmarked subfield offices.⁴⁰ The network of secret detention sites has projected Guantanamo’s deterritorializations onto the anodyne landscape of suburban American office parks and commercial spaces where many of the clandestine facilities are secreted. Camouflaged within a mixed-use federal office building in lower Manhattan, an ICE detention facility installed at 201 Varick Street performs its interdictory functions largely undetected by architects and urban designers who produce global projects from drafting rooms situated in surrounding buildings.

Networked across national geographic space, the custodial imaginary’s distributed infrastructures established early foundations for 21st century technologies dedicated to the control of global mobilities. The US hyperincarceration model -- of mass imprisonments, warehousing and the supermax -- has been exported to the global market for US incarceration services by corporations like Corrections Corporation of America (CCA) and GeoGroup, formerly Wackenhut.⁴¹ The extra-juridical trend towards deterritorialization has culminated in the archipelagoes of offshore US black-sites, where the rendered alien is removed from legal jurisdiction to be fully stripped of place, identity and legal rights.

Who Are We? The U.S. Immigration and Customs Enforcement (ICE) Varick Federal Detention Facility is located at 201 Varick Street, 4th floor, New York, New York. The Varick Detention Facility is operated under Contract with the Ahtna Technical Services Inc. (ATSI). The Varick Detention Facility is a 250-bed dormitory style facility, which houses only adult male aliens (criminal and non-criminal).

The status of Chatham Green and Chatham Towers remains an unresolved test case for conditions on the city's militarized border. The 21 and 24 story buildings' exterior galleries, balconies and windows afford snipers' lines of sight towards the adjacent police headquarters, courthouses and security zone apparatuses. Counterterrorism personnel may have infiltrated the residential buildings to live undercover as residents, introducing intimate forms of surveillant occupation.

The Chathams case garnered little notice in New York City, and even less attention from the national press or public opinion. Yet issues raised by Chinatown's heirs to The Five Points legacy offer a useful framework for understanding subsequent controversies relating to sovereign power, the agency of courts and terms of jurisdiction over territorial limits. New claims on downtown Manhattan's immigrant city have emerged since the Chathams lawsuits were filed in 2003 and 2004. New categories of immigrant ethnicity are now arousing the nativism that underwrote violence in The Five Points and the federal targeting of Chinese in 1882 as a threat to 'good order.' Nation-building debates on the citizen, immigrant and outlaw that were seminal to lower Manhattan's nineteenth century urbanism have been re-ignited in 2010, inviting new voir dire interrogations in the adversarial city.

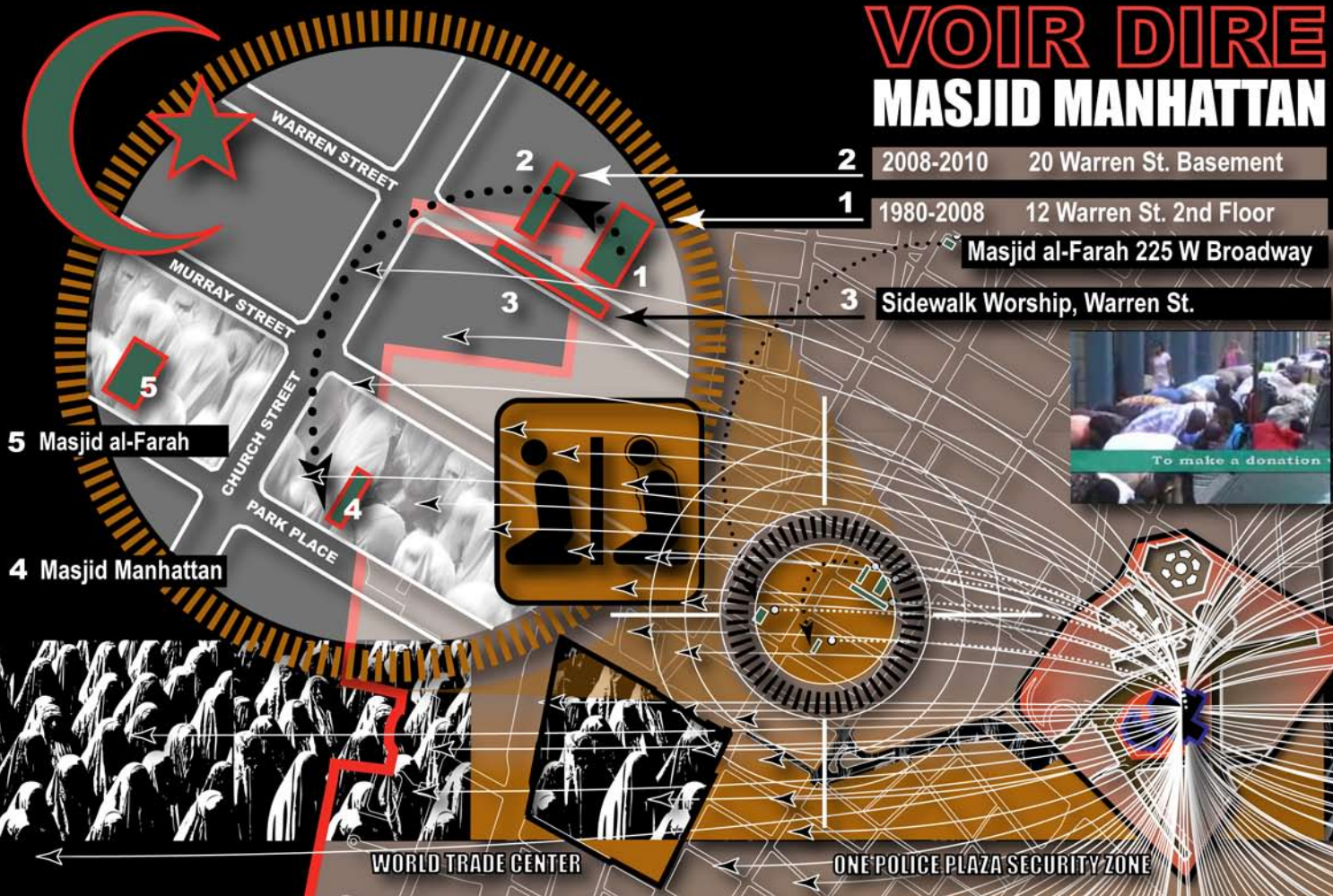


Help Build the House of Allah at the World Trade Center

Insha'Allah we will raise the flag of La-illaha-illa-Allah in downtown Manhattan very soon

Fundraising appeal, above, posted during Fall 2009 on Masjid Manhattan website <www.masjidmanhattan.com>, removed by Summer 2010 and replaced with the statement: "DISCLAIMER: Please be advised that we are not affiliated with any other organization trying to build a place of worship in the area of downtown Manhattan."

VOIR DIRE MASJID MANHATTAN



Map 9

The 'place of assembly' category regulated by the New York City Building Code has been reclassified within post-9/11 security taxonomies.

The TRAGEDY of the SOVEREIGN

A nation-wide furore erupted in November 2009 after the Justice Department announced plans to re-territorialize Guantanamo detainees through jurisdictions of the city they are accused of targeting on 9/11. Few observers were aware at the time that a second territorial shift underway six blocks west of the Moynihan courthouse would soon provoke a collateral controversy. After decades renting modest spaces along nearby Warren Street, the itinerant Masjid Manhattan mosque was negotiating with downtown property owners the purchase of a permanent place of assembly for its growing congregation.

Publics invested in the iconographies of national space eventually condemned both proposed displacements across the global city's local geographies. The planned relocation of a largely immigrant congregation across a distance of two city blocks was challenged as no less a transgression against the sovereign than the importing of outlaws from an extraterritorial camp located 1433mi/2307k south of the city. Both proposed infiltrations ignited ardent discourses of the national border that recycled nation-building debates on the status of the citizen, immigrant and outlaw. Drawing upon strategies of containment refined along America's Cold War frontiers, in its postwar suburbs and warehouse prisons, nativist polemics superimposed new border markers for sovereign space onto an urban matrix flux with globalization's unruly mobilities.

Proposed relocations of immigrant places of assembly and re-territorializations of alien outlaws each challenged the highly-charged borderlands of blast-resistant homeland that have been nationalized at the World Trade Center site in the aftermath of 9/11. Geographer Neil Smith has tracked how an event that initially registered at the scales of the local and global was appropriated as an icon at the scale of the nation.⁴² The site continued to generate eddies of national loss a decade after the attacks. A 9/11 memorial and 12 million square feet of neoliberal office space were still under construction, but security discourse had already produced risk metrics to identify the sixteen-acre site as a target of future asymmetrical threat. Hagiographers of the nation embraced the threat of violence directed against the nation-state, affirming long standing claims of the state's monopoly on inter-state violence. The status of the nation-state as a bounded container of power was reaffirmed in spite of -- or because of -- New York's role as a global city whose cross-border flows of information, labor, capital and goods -- consistent with the neoliberal economic model -- largely bypassed national formations.

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Since the late nineteenth century, Lower Manhattan has been the landing site for immigrants from all over the world. With open arms it has accepted the greatest tide of incoming humanity in the nation's history. Millions came here in search of freedom of speech and religion and economic opportunity.

Reported to have been active on Warren Street since the early 1970s, the Masjid Manhattan could be counted by 2009 among some 140 houses of worship serving approximately 600,000 to a million Muslims distributed across New York's five cosmopolitan boroughs, one of the city's fastest-growing religious groups.⁴³ Recently worshipers passed through a generic fire-rated metal door at No. 20 Warren marked *masjid* in small, glued-on letters, before descending into a cramped basement loft for devotions. Building code occupancy limits for places of assembly dictated that during Friday services, the overflow crowd of some one thousand immigrant laborers, West African street vendors, municipal workers and financial district professionals was obliged to appropriate the sidewalk for prayer. Koranic litanies were syncopated with upbeat tempos of the global city's myriad post-colonial circuits, transforming the public street into a diasporic sanctuary shared with passing traffic and pedestrians. Stowed at curbside by the faithful, oversized duffelbags were stuffed with cheap goods -- knocked-off designer handbags, watches, and perfumes destined for the informal marketplaces of nearby Chinatown's chaotic Canal Street. Warren Street congregants were heirs to a robust entrepreneurial legacy that had emerged during the nineteenth century along the thrumming intersection of downtown streets that had given the Five Points its eponymous place name.

In the fall of 2009, under the banner "*Save Your Mosque*", the masjid web site solicited donations towards the acquisition of a permanent place of assembly to accommodate the peripatetic faithful. A building at 23 Park Place, two blocks east of Ground Zero, was reported to be among properties under negotiation for purchase. A YouTube video appealed for funds while presenting scenes of overcrowded street worship. Video subtitles assured project financing would comply with strictures of sharia law. At the same time, a scrolling coda situated the masjid community within New York City's framework of American justice, stating: "*Since the late nineteenth century, Lower Manhattan has been the landing site for immigrants from all over the world. With open arms it has accepted the greatest tide of incoming humanity in the nation's history. Millions came here in search of freedom of speech and religion and economic opportunity.*"⁴⁴

The web site did not sound conciliatory to those who later denounced its triumphalist tone, however. Fundraising rhetoric was eventually condemned for allegedly militant emblems of territorial conquest: *“Build the ‘House of Allah’ next to the World Trade Center! Help us raise the flag of La Illaha Illa Allah [There is no god only Allah] in downtown Manhattan!”*⁴⁵

But by the summer of 2010, Masjid Manhattan’s web site had undergone a dramatic revision. References to the 23 Park Place property being considered for purchase had been excised. In the place of earlier appeals to “raise the flag of ‘There is no god only Allah’, a terse disclaimer stated: *“Please be advised that we are by no means affiliated with any other organization trying to build anything new in the area of downtown Manhattan.”*

The masjid web site’s abrupt erasures, disavowals and self-censorship punctuated a volatile debate that had gained momentum since Spring 2010, when largely non-urban national publics engaged what might have remained a local story. In May, the lower Manhattan Community Board had approved plans for a second mosque congregation -- not Masjid Manhattan, but the Tribeca-based Masjid Al-Farah -- to build a thirteen-story facility at 45 Park Place, a block west from the property Masjid Manhattan had sought to purchase. The nineteenth century cast iron building at No. 45 was distinctive for having been violently punctured when aircraft landing gear crashed through its roof and upper floor slabs the morning of September 11, 2001, a day when some 70 New York City Muslims are reported to have been killed in the collapse of the Twin Towers.⁴⁶

The New York Times reported in December 2009 in its first article describing the Al-Farah mosque’s plans for 45 Park Place: “there is anxiety among those involved or familiar with the project that it could very well become a target for anti-Muslim attacks.”⁴⁷ Readers familiar with the *realpolitik* of a discourse polarized along nationalized fault lines of religion, race and ethnicity recognized at the time that the projected backlash was more a certainty than mere possibility. Masjid Manhattan’s interest in relocating to 23 Park Place may have been a gesture of cultural solidarity with Masjid Al-Farah, who had already committed to the property at No. 45, but the seemingly coordinated moves towards Ground Zero would be interpreted as ominously invasive. The Justice Department proposal to transport high-profile Guantanamo detainees to trial not far from the World Trade Center site, issued the previous month, was itself being postponed in the wake of public outcry.

the nineteenth century cast iron building at No. 45 was distinctive for having been violently punctured when aircraft landing gear crashed through its roof and upper floor slabs the morning of September 11, 2001

Incremental acts of juxtaposition by multiple actors build the city piecemeal in a post modern New York City no longer governed by the authority of the urban masterplan, as urban theorist David Grahame Shane has described.⁴⁸ Opportunistic logics of New York's real estate market support unregulated negotiations such as those conducted with property owners at 23 and 45 Park Place, where legal deeds delimited the provisional sovereignty of individual property ownership within the global city's fluid economy.

The urban masterplan was an instrument of political and legal control that projected territorializing effects of state onto city and urban subjects. Sovereign power was administered in masterplanned terrain through a jurisdictional geography mapped by the agency of state and federal courts. Power brokers like Robert Moses perfected the masterplan as a totalizing device during much of New York City's history of twentieth century urban 'renewal', when swathes of the city were razed or physically marginalized by military-scale demolition operations.⁴⁹

New territorial strategies have been mobilized to project sovereign effects onto the unruly neoliberal city's emergent global networks with the eclipse of the totalizing plan. The two masjids' incrementalist relocations to Park Place wittingly or unwittingly invaded flux cross currents of two reciprocating systems deploying such sovereign effects: the Ground Zero mnemonic complex itself, and its symbiotic complement, the NYPD security regime anchored by the One Police Plaza Security Zone. Operating in tandem, the linked systems amplified their privileged status as critical infrastructures within a national threatscape posited by dominant counter terrorism narratives. Having intervened geographically midway between the two systems, the mosques had become captive within codependent discursive frameworks. Outside observers focussed on Ground Zero as a singular centroid of the ensuing mosque relocation controversy failed to recognize the workings of overlapping systems of which the police security zone was an instrumental component.

the two masjids' incrementalist relocations to Park Place wittingly or unwittingly invaded flux cross currents of two reciprocating systems dedicated to such sovereign effects: the Ground Zero mnemonic complex itself, and its symbiotic complement, the NYPD security regime anchored by the One Police Plaza Security Zone

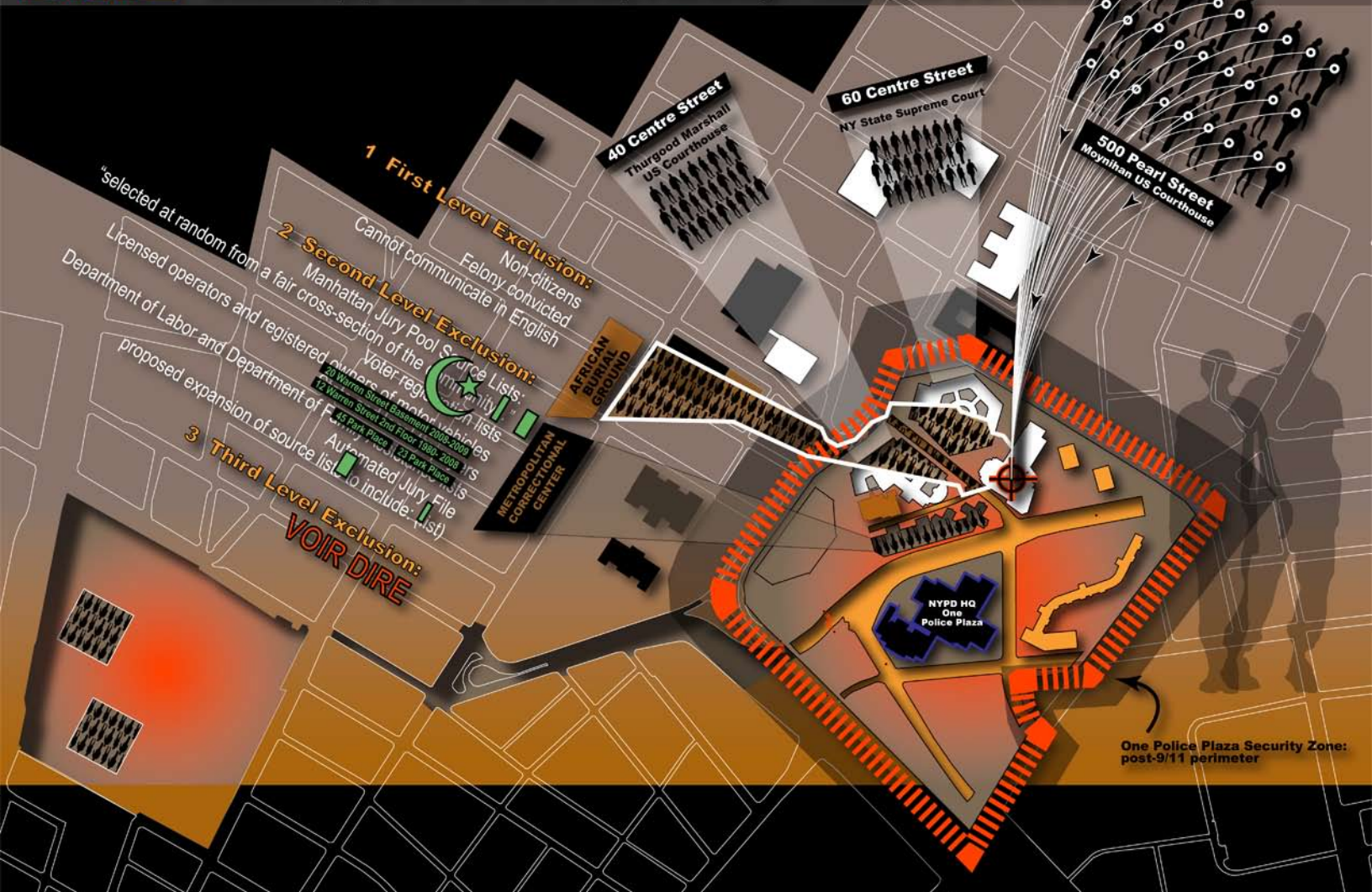
The World Trade Center enclave that lay to the immediate west of new places of immigrant assembly proposed for 23 and 45 Park Place was the affective pole of the codependent security binary. The site's post-9/11 schema memorialized threats to national dominance in the inter-state system by conflating the forensic scale of mass death with the architectural scale of collapsed megaliths dedicated to world trade. Columbaria subsumed the singular tragedy of the individual within a Tragedy of the Sovereign -- and concomitant tragedy of sovereign space. Keening rituals performed on-site by victim families provided lamentations for the national border breached during violent erasures of the port city. The discourse of the cenotaph sanctified the national frontier, legitimating expeditionary strategies of preemptive war and occupation on the Other side of the border. Similar preemptions would regulate domestic space through internalized topologies of ethnic containment that functioned as urban mirror sites for the national boundary.

Looping feedbacks linked Ground Zero's spectacle of sacralized homeland with territorial strategies epicentered several blocks east, in next-generation security practices mobilized from NYPD headquarters at One Police Plaza. While nominally dedicated to the exigencies of the global city and region, the NYPD -- as the country's largest force focussed on policing a high-value target -- has gained privileged status in the iconographies of the nation. Nationalized rituals of grief provide suasive scripts to legitimate the exceptional state of emergency prosecuted by the NYPD's militarized command, control, intelligence, surveillance and reconnaissance systems. National borders breached on 9/11 will be rehabilitated by the city's boundary regime of emergency street closures, manned checkpoint booths, surveillance cameras and watch lists that inscribe the state of exception as an addendum to the canon of American exceptionalism.



RACIAL and ETHNIC DISPARITY in MANHATTAN JURY POOLS

Whites overrepresented, people of color, Hispanics underrepresented, calling into question the fairness of thousands of jury verdicts reached annually in the borough... Citizen Action of NY 06/27/2007



Map 10

*A 2007 study found racial and ethnic disparity in Manhattan jury pools, “calling into question the fairness of thousands of jury verdicts reached annually in the borough.”*⁵⁰

BARELY

A study reports that after 9/11, New York City Muslims of different national origins shared a heightened sense of community brought on by adversity, “increasingly occupying the same social, religious and political spaces.”⁵⁰ Such transnational collectivities have transformed places of immigrant assembly into key zones of preemption. In 2006, after a paid NYPD informer infiltrated city mosques and induced the participation of youths in inflammatory dialogue, the hapless clerk of the Islamic bookstore next door to the Islamic Society of Bay Ridge in New York City’s borough of Brooklyn was convicted in federal court of a plot to bomb a Manhattan subway station at Herald Square.⁵¹ In 2010, the imam of a mosque in the New York City borough of Queens was convicted in federal court of assisting the planner of another subway bomb plot after the cleric alerted the plotter the latter was under surveillance by the FBI.

After 9/11, the self-regulation in effect in Muslim enclaves acknowledged the immanence of sovereign preemptions: “Some people stopped attending the neighborhood’s two major mosques, preferring to pray at home. Others no longer idle on the street after work.”⁵² A local Arab-American community newspaper described an “endemic mistrust of the police and fears of reprisals.”⁵³ The New York Times reported that informants inspired the “familiar fear” that links congregants to the totalitarianism of their countries of origin “where informers for the security services were common and political freedoms curtailed.”⁵⁴

When territorial disputes that implicate places of immigrant assembly exceed building code jurisdiction, they may be submitted for adjudication among the granite acanthus leaves and volutes of the Civic Center’s state and federal courthouses. Yet the goal of rendering territorial justice in the immigrant city invites an investigation of civic processes acclaimed by City Beautiful’s urban narratives. Frameworks that will litigate the immigrant city’s exceptional territorial disputes require a form of urban *voir dire* that interrogates juridical claims of structural impartiality.

If introduced into the civilian courtroom’s legal hermeneutics, trial scripts that indict places of assembly would be consigned to interpretation by the polity’s embodiment -- twelve jurors of a pool distilled from the flow of some 6000 summonses issued in Manhattan each week.⁵⁵ In a trial setting, jurors will call upon urban life experiences to help draw inferences and generate robust fact-finding scripts during deliberations that underwrite the rendering of verdicts. This process of jury decision-making, theorized by Hastie and Pennington’s influential story-model, is supported by empirical studies.⁵⁶

Jurors serving in both state and federal trials courts must meet New York State requirements that they 1) be citizens 2) who can communicate in English 3) without a record of felony convictions. Jurors drawing upon their autobiographies of what urban sociologist Louis Wirth referred to as “urbanism as a way of life”⁵⁷ are thus granted proxy jurisdiction over city territory and its constituent places of assembly through proof of citizenship in the national community, skill in national language and their authentication as non-outlaws.

it is the juror who barely meets the three benchmarks for service who may offer compelling peer representation for the immigrant place of assembly’s contra-sovereign occupancies. We identify this civic actor and testimonial geographer as the ‘barely-juror’

It is the juror who *barely* meets the three benchmarks for service who may offer compelling peer representation for the immigrant place of assembly's contra-sovereign occupancies. We identify this civic actor and testimonial geographer as the 'barely-juror'. This marginal juror's agency as a proxy for sovereign jurisdiction is informed by life experiences that map the port city's edgier zones: the borderlands of non-citizenship, non-language and non-law.

Benchmarks for jury service are tested along the borderlands of national community. Immersed in ambiguous zones, national language is negotiated through the linguistic mediations of insurgent translations. The barely-juror who occupies the city's borderlands is likely to have navigated the geodemographics of social control produced when welfare-state penology was supplanted by the US crime-control industry's custodial turn during the 1970s. Warehouse penology delimited sovereignty for a largely suburban ideal of national space excised of risky surplus -- typically urban -- populations. Invested in the politics of the border zone, the barely-juror produces crucial urban inferences during trial deliberations, testing custodial imaginaries that would relegate immigrant sites to the authority of petty sovereigns who service the border regime.

Opponents of the Justice Department's proposal to legitimate Guantanamo's outlaws through the jurisdictions of the city effectively argued that Manhattan's juridical city was unequal to the task of adjudicating a certain classification of alien. Such a claim establishes a troubling precedent of abandonment for an historically cosmopolitan city with a current population almost 40% foreign born.⁵⁸ The rescinding of so-called terrorist trials builds upon US law, which, since the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the USA Patriot Act of 2002, has increasingly limited the rights of immigrants, refugees, asylum seekers and foreigners, and expanded the covert investigation of dissenting groups.⁵⁹ Criminologist Mary Bosworth observes that foreigners are presumed guilty until they can prove otherwise. Aggravated by the moral panics that conflate immigration with the war on terror meme,⁶⁰ such recisions further detach the alien from metabolisms of justice in the city.

**notwithstanding police assurances that
“pedestrian access within the security
perimeter established by the check points
and the delta barriers is not restricted,”
the barely-juror reporting for service to
a courthouse situated inside the NYPD
security perimeter penetrates terrain
targeted by risk society's militarized
policing theory and practice**

Recisions inscribe places of immigrant assembly with the stigmata of *territorial infamy* that mark *no-go areas* of relegation mapped by sociologist Loic Wacquant.⁶¹ Recisions may condemn immigrant sites as exilic borderlands of unlitigatable extraterritoriality, a condition of spatial quarantine that transforms them into the new lazarettos of the metropolitan system.

Vital pipelines of Manhattan jury pool processes are among critical infrastructures enmeshed within the One Police Plaza Security Zone centered on police headquarters, emblem of the indefinite post-9/11 state of emergency. In the event of spectacular trials of alien outlaws, a ring of two-thousand interlocking metal barriers will surround the perimeter,⁶² reinforcing exceptional security claims, as rooftop snipers and mobile teams of heavily armed officers make a show of force in “Kevlar helmets, heavy body armor with ballistic plates front and back, M-4 carbines with collapsible stocks, Smith & Wesson nine-millimeter sidearms with fifteen rounds in the clip and one in the chamber.”⁶³

NYPD has issued assurances that “pedestrian access within the security perimeter established by the check points and the delta barriers is not restricted.”⁶⁴ Yet the barely-juror reporting for service to a courthouse situated inside the hardened enclave is vulnerable within risk society’s militarized policing theory and practice. Raymond Kelly, the police commissioner from 1992-1994 and 2002-present, is touted for targeting skills honed during Vietnam combat, when as a marine forward artillery observer, he called in “barrages of high powered munitions on real and suspected enemy positions.”⁶⁵

Guy Debord proposed in his theory of the spectacle that “real life is materially invaded by the contemplation of the spectacle, and ends up absorbing it and aligning itself with it.”⁶⁶ What is the effect of the security theater’s militarized spectacle of overt and covert state intimidation on the barely-juror already more likely to be subjected to apparatuses of metropolitan targeting and control? This class of juror has been shown to be more likely to under-respond when interpellated by jury summons, exacerbating urban under-responsiveness to that averages under 20%.⁶⁷

When the NYPD regularly mobilizes large scale units in full battle regalia to random potential terrorist targets in the city as a theatrical show of force, certain sectors of the population are preemptively targeted for inspection: “plainclothes officers from the Intelligence division watch the crowd to see if the E-men in full battle gear provoke any unusual behavior.”⁶⁸ The barely-juror in the crowd is already more likely to have been subjected to short-term street detention during NYPD stop-and-frisk activity that routinely targets marginal ethnoracial groups.⁶⁹

What is the effect of the security theater’s militarized spectacle of overt and covert state intimidation on the barely-juror already more likely to be subjected to apparatuses of metropolitan targeting and control?

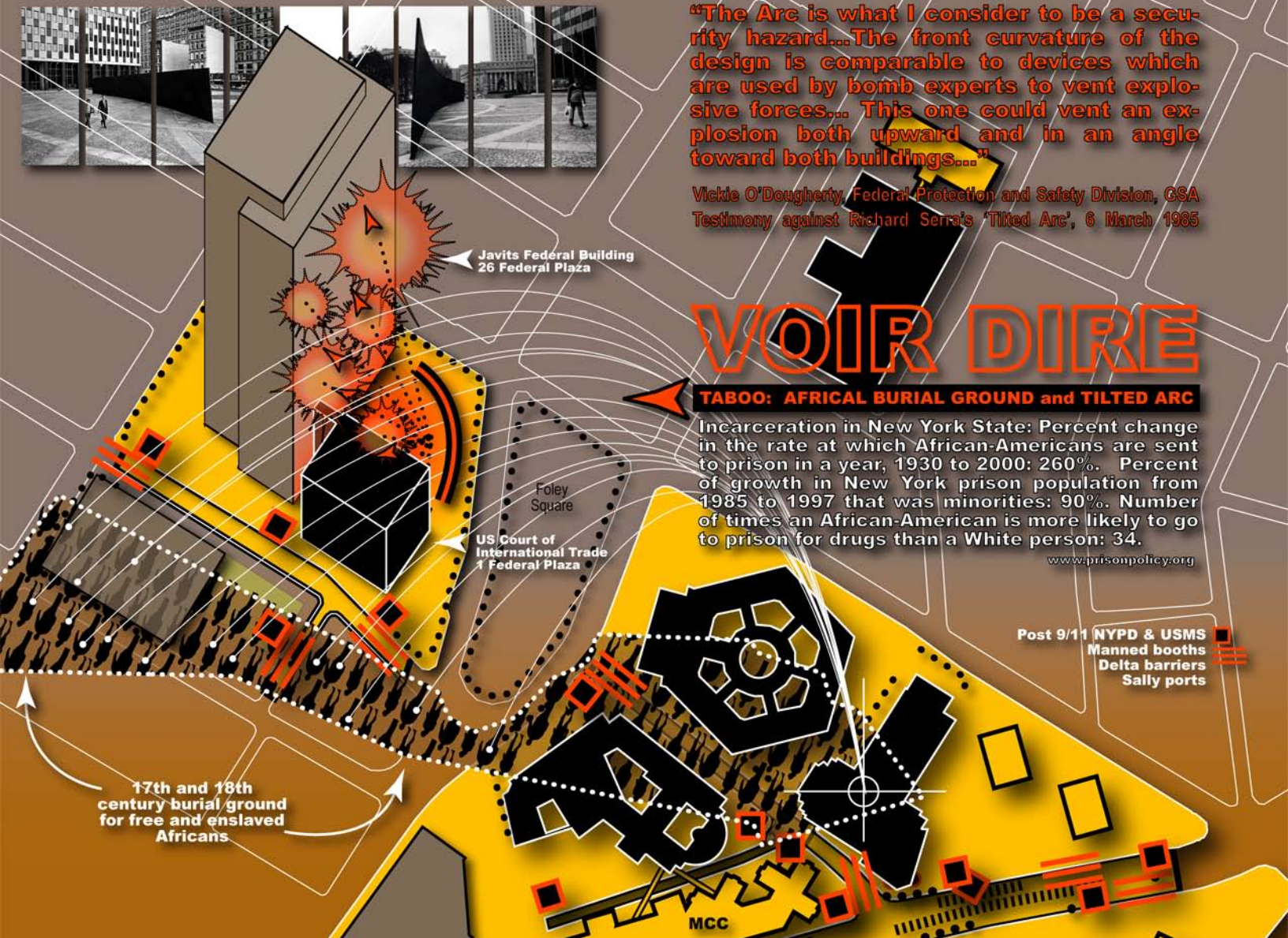
Such policing practices circumscribe groups more likely to have been residents of controlled housing like the Chatham complexes, where architectures and procedures mirror prison controls. Communal typologies ranging from social housing to risky places of assembly and warehouse prisons are linked on a malignant carceral continuum. Continuities that link the typologies are illustrated by the nominally rehabilitative practice of post-welfare state penology that encourages inmate families and friends to regularly occupy contact or non-contact visitation spaces located within correctional facilities. Visitations are intended to maintain the inmate's family unity, ties to the community and establish "a positive attitude for reentry into society."⁷⁰ But contact and non-contact visitation spaces effectively open up the boundary between the correctional inside and outside, linking prisons to other regulated architectures, and predisposing communities to acquiesce to prisonization normalized in civilian housing. The barely-juror is thus more likely to have navigated the recidivist inflows and outflows of minority bodies tracked by prisoner identity number that continually cycle between social housing spaces of outlaw urban zones and networked archipelagoes of a vast, decentralized US prison housing system that act as border markers for ethnically-cleansed national space.





"The Arc is what I consider to be a security hazard...The front curvature of the design is comparable to devices which are used by bomb experts to vent explosive forces... This one could vent an explosion both upward and in an angle toward both buildings..."

Vickie O'Dougherty, Federal Protection and Safety Division, GSA
 Testimony against Richard Serra's 'Tilted Arc', 6 March 1985



VOIR DIRE

TABOO: AFRICAL BURIAL GROUND and TILTED ARC

Incarceration in New York State: Percent change in the rate at which African-Americans are sent to prison in a year, 1930 to 2000: 260%. Percent of growth in New York prison population from 1985 to 1997 that was minorities: 90%. Number of times an African-American is more likely to go to prison for drugs than a White person: 34.

www.prisonpolicy.org

Map 11

In 1989, the US Government demolished 'Tilted Arc', a site-specific sculpture it had commissioned from artist Richard Serra, and installed in the Civic Center in 1981. As part of a campaign to discredit the confrontational artwork, a government security expert testified that the sculpture could be used by terrorists to vent explosions towards adjacent federal buildings.

WATCH LIST

A common locution of nineteenth century New York and of The Five Points referred to tenement residents as 'inmates', revealing a genealogy of the coercive margins of disciplinary urban housing practice. As a control horizon for self-regulating city residents, the cautionary boundary of disciplinary space presents an acute datum for the barely-juror. She inhabits zones of the city where autonomous residences are provocatively juxtaposed with coercive housing, which, like Chinatown's Chatham complexes locked down in the NYPD security zone, mirror the incarcerative mechanics of the prison.

autobiographies of resistance are produced by the material frameworks of the complexly layered act of inhabiting the city as a multiply decentered subject

Detention's cautionary datum is a subtext when the state interpellates the barely-juror by summons delivered to her place of residence. Collating the prospective juror's geolocated proof-of-residence with the housing grid authenticates the resident as an agent of proxy jurisdiction over urban terrain. Geolocation presumably yields a jury pool with representative geographical coverage. Yet, being summoned by the state at a place of coercive residence further problematizes incarceration as a spatial outcome of trial verdicts.

New York State randomly generates summonses from a jury pool master list deemed sufficiently representative in that it draws from five separate databases: 1) holders of drivers' licenses and ID's issued by the Division of Motor Vehicles, 2) New York state income tax filers, 3) registered voters, 4) recipients of family assistance, and 5) recipients of unemployment insurance. Constituent databases are known to be subject to exceptional examination within the counter terror framework of the NYPD Domain Awareness System, however. Manhattan's jury pool master source list thus collides with other statistics and watch lists that continually model places of assembly stratified by race and ethnicity, shaping a crisis geography for barely-juror life experience. When state data invades the home, outside is coerced into inside, public into private -- and vice versa -- nowhere less than in tainted zones subject to the endlessly looping feedbacks of myriad social and political controls.

Mark Poster has argued that the database, as a configurations of language, is discourse that "constitute subjects outside the immediacy of consciousness."⁷¹ Database interpellations produce dispersed, multiple identities that transform the subject. Thus targeted in a cross-referenced jury pool master grid of scrutinized databases, the barely-juror is interpellated by the summons as a multiply decentered subject.

Autobiographies of resistance are produced by the material frameworks of the complexly layered act of inhabiting the city as a multiply decentered subject. Having thus navigated the architectures and practices of a detention regime aligned along the borders of citizenship, language and the law, the barely-juror's experience of urbanism as a way of local life challenges a national custodial imaginary inspired by suburban containments.

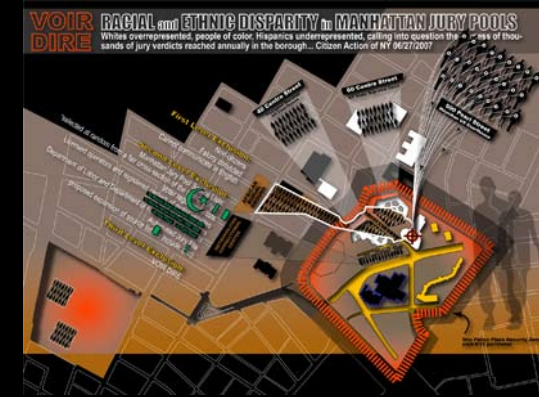
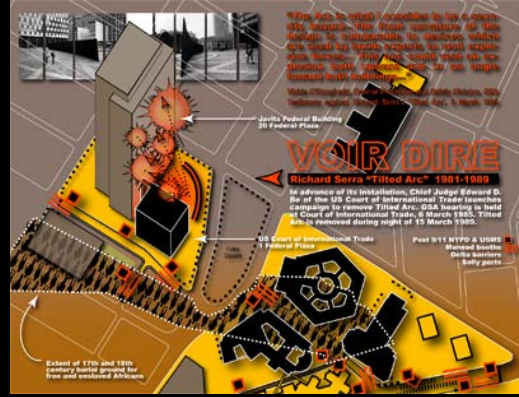
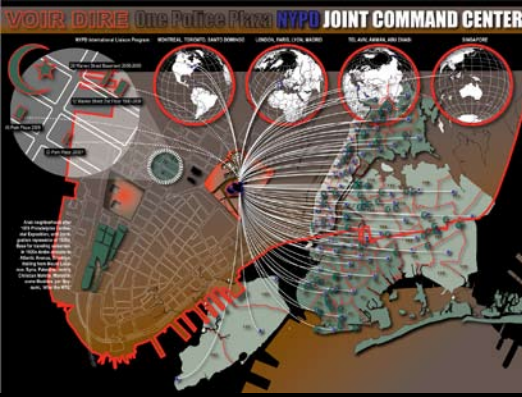
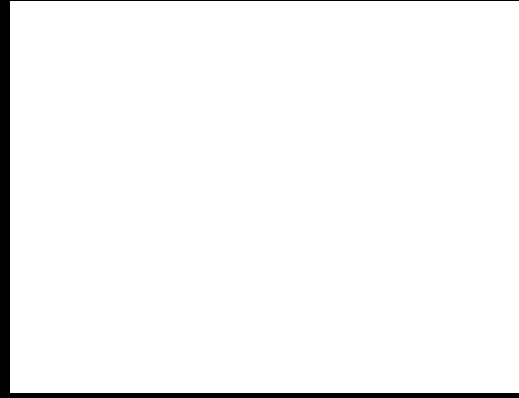
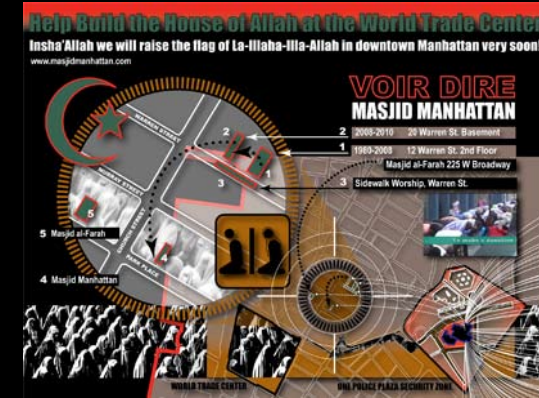
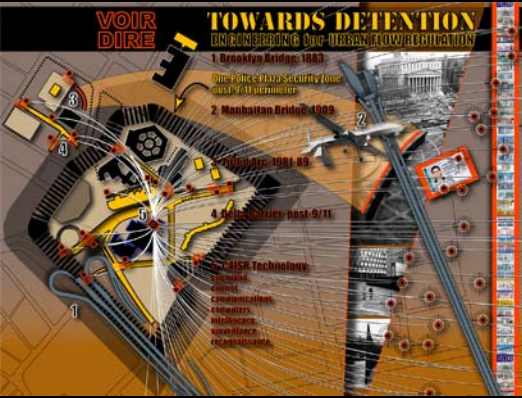
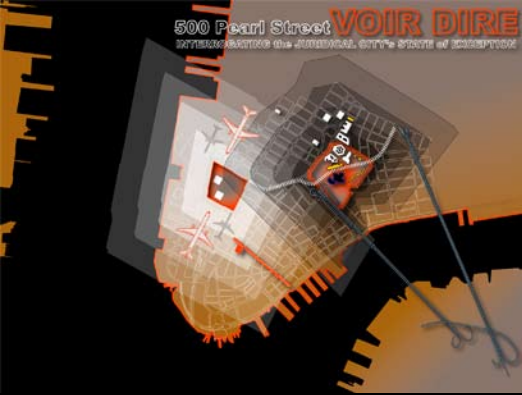
Students of the jury system cite its adoption by some 50 countries as constituting “part of a move away from a totalitarian regime to one of greater democracy.”⁷² Testifying in 2009 at a New York State hearing on jury diversity, however, legal scholar Valerie P. Hans noted: “many courts face challenges in assembling representative jury pools...A jury that reflects the full range of social, economic, and political perspectives as well as different life experiences is better at fact finding and at incorporating community values. A representative jury that delivers fair and just verdicts also promotes the legitimacy of the legal system in the eyes of citizens.”⁷³

Hans’ concern echoes a 2007 study which found that for Manhattan civil and criminal courts combined, whites were over represented in the jury pool by 43%, blacks under represented by 42%, and Hispanics under represented by 77%, “calling into question the fairness of thousands of jury verdicts reached annually in the borough.”⁷⁴ Statistics on jury under-representation reveal the vulnerability of the barely-juror as an actor capable of generating robust fact-finding scripts during trial deliberations that underwrite the production of territorial justice in the city.

Under-representation in Manhattan juries is linked to the structural pattern of “dramatic racial disproportion in the incarcerated population.”⁷⁵ Human Rights Watch reports that “in twenty states, the percent of black incarcerated is at least five times greater than their share of resident population.” In New York State, blacks represent 15.9% of the general population but 54.3%, of the incarcerated population, for a ratio of 3:4.⁷⁶ An estimated 30% of the country’s African-American males are excluded from jury service because of a record of felony convictions,⁷⁷ further hardening structural linkages between racialized incarceration, jury under representation and the production of justice in the city.

The adversarial *voir dire* process itself may not yield the stated goal of impartiality. Court decisions have prohibited discrimination or stereotyping during *voir dire* in the peremptory challenges of African-Americans, Latinos, Hispanics, or on the basis of gender. But as jury consultant Jeffrey Frederick notes “the courts appear willing to recognize the use of peremptory challenges on the basis of the opinions expressed by jurors, and challenges based on occupational status, background, lifestyle, or nonverbal communication of the juror.”⁷⁸





Epilogue

VOIR DIRE

Scripts for a museum of the immigrant city have yet to be written for The Five Points archaeologies shattered at the World Trade Center on 9/11. The destruction of the physical record erased key passages of the port city's history as a destination for the empires of trade. But the lost trove of evocative teawares and thimbles may yet be remembered. Exhibition narratives in Ground Zero's own memorial museum may someday recall the slum neighborhood's five-pointed intersection of city streets as a foundational architecture for *vox populi* in the immigrant city.



Urbanism as a way of life was litigated at the emblematic crossroads of The Five Points, the archetypic place of urban assembly. Its nexus of city streets channelled the polyglot flow of cosmopolitan enterprise, diaspora and desire, shaping critical infrastructures for metropolitan nation-building. The 9/11 attacks on New York City were directed in part at cosmopolitanism's reviled impurities. The same cosmopolitanism is a target of American nationalists who call for the suburbanized containment of a heady urban mix and the city's myriad festivals of difference.

Beyond the vagaries of street justice and courts of public opinion, the juridical city invites urban life experience as a datum for the adjudication of territorial justice in the cosmopolis. Empanelled as a proxy for the city's disputed geographies, the petit juror may challenge the regnum of the petty sovereign. As *voir dire* invites adversaries to negotiate borders along the map of the nation, the edgy port city draws its own cartography through the agency of the barely juror who charts contestatory itineraries.

Urban portolans navigate the nexus of The Five Points, the triumphalism of City Beautiful, the cigar shop of a disenfranchised citizen, the lock-down of tower-in-the-park urbanism, the disciplines of pre-trial and non-trial detention centers, the litigations made in the name of Moynihan at the 500 Pearl Street courthouse, the NYPD's exceptionalist discourses of emergency command-and-control, the lamentations of Ground Zero.

Charting a debris field that glitters with lost shards of hundreds of thousands of glass bottles and thimbles into which have been poured the memory of the immigrant city, the map makes room for the foundations of the new masjid.



Acknowledgement

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