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My Loiterer: A story of an Invented Character. Doug Ashford

(a re-written version of "The Monument Lover",  
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This lecture is a little new for me in two ways, first the bulk of it is something I have already written, an essay called *The Monument Lover, or Why I Have Never Been to the Statue of Liberty* and secondly because there is really no dependable list, save one example, of artistic works to back up my thoughts here. The reason for this is that this work is a reaction to my experiences as an artist working with newly established frameworks for public art, contexts of organization and theory that I feel are limiting and convolute an origin that for me is intrinsically non-rational: the desire of artists to invent social forms and in doing so propose new and different possibilities for public life.

The topic of this talk is loitering, or vagrancy. Loitering, like all conditions that both create and affect the experience of public life, has been defined in many different ways over the years. My purpose here is to diagram the

specific understanding of loitering as a metaphor for radical artistic practice. To do this I felt I should outline a specific legal history, that resulted in a Supreme Court ruling and then compare this narrative, which had actual physical consequences, (people where arrested and went to jail, their bodies interned and manipulated, time and money was spent on their appeals to the state) with the metaphysical or speculative musings of an artist frustrated by the changes in cultural capital, the shifts of culture away from small scale indigenous and situational expression, to large public efforts that represent the global forces of post-national corporate management. I know this is a mouthful - so I will get to unpacking artists relationships to public expressions of authority, hopefully, after I describe this legal example - a series of court cases that ended in the 1972 Supreme Court decision of *Papachristou v. The city of Jacksonville*.

This is a statute that was put on the city ordinance books in Jacksonville, Florida in 1965:

"Rogues and Vagabonds, or dissolute persons who go about begging, common drunkards, common night walkers, pilferers or pickpockets, traders in stolen property, lewd, wanton and lascivious persons, keepers of gambling places, common railers and brawlers, persons wandering or strolling around from place to place without any lawful purpose or object,

habitual loafers, disorderly persons, persons neglecting all lawful business and habitually spending their time by frequenting houses of ill fame, gaming houses, or places where alcoholic beverages are sold or served, persons able to work but habitually living upon the earnings of their wives or minor children shall be deemed vagrants and, upon conviction in the Municipal Court shall be punished as provided for (such) offenses."

It is remarkable, but not for its archaic perception of propriety and habits in the face of modern life - it is remarkable, I think, because it was the first of many almost identical ordinances in place throughout the country that finally became challenged in the Supreme Court. It is important to note that these laws came into being under extremely specific historic conditions, originally developed from English common law, and then adapted to changing social formations in America with the maintenance of control increasingly in mind. The gradual decay of the European feudal system and its replacement with a legally mandated system of working for fixed wages which coincided with the royal enclosure of a previously open landscape - were its main causes. People who once stayed in place were forced by economic conditions to begin to wander around. In such a culture of increasing nomadism, the absolutist minority needed to regulate the movement of people in order to protect itself

from rebellion. But it was in nineteenth century America that the full effect of a disciplinary system was presented to the exploding urban fabric that we still live with today. Our small aristocratic societies that had built an economic infrastructure based on armies of cheap unorganized immigrant labor found themselves faced with a growing worker's movement by the end of the century. The Labor wars that were fought between new unions and management through to the 1930's brought many cities and counties, for short periods of time, under the judicial control of worker' councils and organizations. Although this may be a history that is understandably hidden from most official accounts, the existence of urban armories in most American cities should be reminder enough of the need for the state to act violently and systematically in response to the early efforts of organized labor. These monumental edifices housed the troops, first the army and then the National Guard, that were made available to local constabularies to control the streets, parks or factory floors in the case of public organizing or worse, mass rebellion. This is why many vagrancy laws of the period specifically outlawed the public congregation of three or more, "persons wandering or strolling around from place to place without any lawful purpose or object."

In comparison to this real historical example I would like to propose an imaginary protagonist. Someone to narrate the despondency that many practitioners feel these days

regarding the possibility of the creative transformation of public spaces - a figure that embodies an attempt to refuse the relentless logic of a modern, rationalized configuration of urban life. This is someone who purposefully or unconsciously ignores the spatial and symbolic directives of urban infrastructures that have been designed for efficiency and order. This character would be called a "loiterer" or a "deadbeat." For my purposes here I think we need a name so I'll call this protagonist M-.

Believing in idleness as sublime in its own right, M- inadvertently and absentmindedly stands resistant to the contemporary configurations of the long-standing ethic of industriousness presented by managed capital. Drifting between the ethical margins and the spatial crevices of the city, M- finds expression in the things left out and left over from the ongoing machinations of a normalized urban routine. Such a character is committed to a kind of laziness that emphasizes an archaic sense of wonder towards the enforced routines of an urban population. (I say archaic because such a reaction, of a wondrous curiosity without circumstances, either of deployed theory or of assimilated acceptance, is surely of a pre-modern sensibility and perhaps radically so as David Wilson can demonstrate.) Although lazy, M- is active enough to appear as a kind of ambulance chaser, following the confining reinvention of monumental culture in order to find places where one can reconstitute the effects of modern life in ways that confound authority. M- is a figure who never went to the

Statue of Liberty because it was rehabilitated in 1986 to prevent access to the one place you could fall in love with a stranger: the scary precipice of the outstretched, torch holding, hand.

M forgoes the way professional cynicism accommodates the places of public participation as objects of study, because for the loiterer the only way to realize expansive notions of the self is to try to upset the streamlined and privatized nature of urban spaces, through performative example either with the body, in physical intervention or conceptually, through the construction of models. (*Brecht quote*) Faced with the tableaux of rationalized pleasure often referred to as the "public sphere", our loiterer is seeking (though almost never encouraged) to design a more fugitive idea of public space as a relationship within which people can put themselves together differently: in ways that will symbolically or actually disrupt the smooth organization of exchange. That's why M- is always milling around town, seeming unruly and acting out.

A certain category of artistic production can be seen to be complicit in the agenda of urban renewal insofar as artistic labor is easily recognizable by residents as a welcome modification of the commercialization of urban infrastructures. The efforts by some artists to record the oppressive effects of political agencies and cultural traditions often reveals an amnesia concerning anything not

distorted by the commercial sector. I am thinking here of activist public art separated to the basement or vestibule of the museum, surrounded by explanatory texts, a dissected corpse to examine after an audience has been enlightened and enlivened by the actual art upstairs. Although extremely well meaning, such presentation of art work often continues the narrative of the design of authoritarian history in public spaces by reacting to them as reductions. Representations of "empowered" communities have instrumentalized many recent public art projects into inadvertent engagements with a furthering of urban rationalization. By concentrating on the political designation of neighborhoods and groups rather than the economic and spatial relationships that determine the political condition of urban residents, many artistic and cultural projects fail to escape incorporation into the "revitalization" of urban infrastructures. From Skulptur Projekt '97 in Munster, Germany, to The Three Rivers Arts Festival in Pittsburgh, PA, art agencies in collaboration with city governments have repeatedly tried to reappraise urban identity through the use of monumental critical gestures. Such spectacular scenery often does little more than recreate strict parameters for dissidence by marginalizing collective and individual struggles into well managed "festivals." Worse, such cultural organizing tends to merely highlight the unique characteristics of one urban setting against another by simplifying complex subjective understandings of identification with geographical locations.

As cities search for ways to produce visual distinction from each other through art's symbolic capital, new procedures for naming urban spaces appear with art festivals; and the reappraisal of real estate itself not far behind. The German artist, Maria Eichhorn has aptly demonstrated this by actually buying a parcel of land as her contribution to Skulptur Projekt '97 Munster last year. Refusing the role of sidewalk decorator or community organizer, Eichhorn used the money that the organizers of an arts festival gave her to purchase an undeveloped lot in the city of Munster and then gave it over to residents to develop as they wished. (\*check this) It is heartening to see that an artist can use the framework of a site-specific arts festival like Skulptur Projekt to reveal art's determining role in reorganizing real-estate values. As other artists and critics have tried to point out, the official face of community based art production, or "new genre public art," even if originating in more progressive forms of critique initiated by artists in the 70's and early 80's, has recently been re-arranged to augment the perception of city as a paradigm of controlled appetites. Art festivals are substitutes for the real involvement of citizens in the fabric of their homes. [I know you've been there, all these people gathered together, viewing the experimental and bizarre efforts of the artists amongst them, eating and partying, all without consequence.]

The protagonist that I have invented, M-, would likely see the hidden logic of art tourism, the city fathers making

an arts festival to bring more heads to more beds in more hotels. The introduction of new genre public art programs as a promotion of urban places is effective against the suburban backdrop of landscapes leveled to indistinction by Gap Clothing Stores and KFCs. The surveyed homogeneity of a city plan that our highly engineered sphere of \* consumption demands, potentially prevents the production of unknown, original or surprising spaces. As a longtime vagrant, M- would probably remember that as the city becomes more homogenized through commercial "renewal", its citizens are increasingly abstracted by the needed influx of demographic precision. For those of you who have not yet been called by a corporate researcher, demographics is the science and study of populations to determine their future character as potential consumers. For some time now, the "character" of a population, increasingly specified to a neighborhood, reader profile, or audience segment, has meant that engineers of spaces or marketing regimes have the ability to buy and effect our purchasing habits. Without a predictable science of markets, the new city plan can become unprofitable. New denizens, as immigrants, become universalized in a categorical regime reflective of the city's segmented re-planning of its streets and passageways. Accordingly, new urban passages are built in ways that are unavailable for loitering, an attempt to prevent individuated use and improvisational consumption. Occupants are increasingly pre-selected through demographics to appear only where needed.

We can propose that M- might therefore search for spaces that are not measurable through traditional statistical research, that can't fit into the categories and structures invented by demographers. Loiterers need to develop more specific understanding of place because the successful vagrant must know the nooks and crannies that certain areas will provide. Always using the city but never "at home", M- finds respite in drifting through its subaltern and subterranean cavities - of finding interactive spaces in criminal escape from the surveying control of the urban masterpiece. M-'s escape is into unapproved uses of places within the city's walls. When the details of a design can be understood, M- can even try to use the Gap's clothing store differently. But this kind of understanding requests of us some kind of investigation of the history that formulated the ideas of urban design that we live with.

Seemingly in contradiction to the European tradition of public space as an ever-present residue of the absolutist influence of monarchy or church, America's streets developed as the only publicly contestable locations within the unforgiving mapping of the landscape by industrialism. Without the piazza or boulevard, citizens had to find discursive space on their own block, on stoops and in bars. Such an economy of expression reinforces the public invisibility of the majority in the town square and the factory floor. Whenever the disenfranchised attempted to

congregate outside local, secret or subaltern spaces, they would be constituting a major territorial contestation. Loitering became illegal in American cities when workers started coming together in places other than their own kitchens and front porches. Nineteenth century America legislated public space and encouraged violent police reaction against collective public practices to physically prevent the enfranchisement of the majority, non-owning populations.

America has an unfortunate habit of deforming all it's darkest bits of public fantasy out of political discussion and into personal choice. Destruction, escape, and preservation are often expressed in ways that will keep the city streets regulated and confined. In charting the complex relationships that American citizens have had to the logic of the city, the imaginary and subaltern arenas of celebration that the loiterer confirms, are really difficult to find. Non-rational exercises within American culture like radical sexual play and economic organizing, are instead repressed by historical and media representation. Even when visible, public desire is usually modified or disarranged to take on surprisingly twisted forms of expression.

One dominating trend in social repression is the phenomena of escape from urbanism altogether. Originating in the seclusive enfranchisement of the bourgeois apartment as a sanctuary from the chaos of the street and developing into the impermeable logic of suburbanization, escape now seems to rest on the false necessity to begin the city anew on newly

privatized terms. Four million Americans now live in closed off, gated, private communities; separate towns or villages that are protected by security forces responsible only to the residents themselves. The population of these places tends toward the white and republican variety of Americans, those most often collectively rejecting the idea of paying for the public space outside their immediate neighborhood. These residents spring from the long-standing antigovernment tradition in America as well the belief in the vast and protected accumulation of wealth. When citizens retreat into these havens, separating themselves both physically and ideologically from the urban whole, traditional urban renewal agendas, such as public parks and reduced income housing, are negated. The level of restrictions established by the governing boards of these communities range from the standardization of backyard landscaping to the right to own a gun. Loitering, of course, is expressly forbidden.

Without apparent irony, residents of private communities regularly agree to policies that they would probably otherwise reject for the country at large - such as strict environmental protections that apply to many co-habitative species within the guarded gates. Exclusively the residents and their guests can see such fishes and birds, objects in the protected spectacle of a realm of exclusion. Nature as a calmed comic version of itself is even more extensively evident in Florida where Walt Disney Inc. has recently filled it's own private city, Celebration, with new Americans ready to fulfill the

private fantasy of escape in the shadow of Disneyworld. Such a benevolent fortress was, of course, one of Walt's original dreams for Florida and for the world.

A different reaction to escapism is preservation. Modern cities have long experiences of the failures of urban renewal fads, from the housing projects in skirting neighborhoods to the central pedestrian malls in small towns meant to offset the economic effects of suburban shopping emporiums. In my home town of Ithaca NY, even the offices for public assistance have relocated to the suburban highway contexts of megastores and gas stations, leaving poor urban single parents with the task having to take the bus three miles to pick up a check. Crucial to the re-designation of a downtown area as distinct from the "mallification" of the suburbs is the supposed revitalization of these areas as unique in their proximity to the energy that artistic expression provides to a citizen understood only as a consumer. Spending tax money on the arts rather than on schools and hospitals in a society where large segments of the population remain under served in these areas may seem ridiculous. But when the arts are presented as a practical extension of the evangelism that supports liberal reformist thinking on urban identities, "saving the city" and "making a new context for art" are two phrases that can be spoken in the same breath and without real connection. Although revitalization without redistributing wealth may seem illogical in this context, as it is in many others, it appears

to be in application all over the country.

Over the last 10 years alone, arts capital building expenses have risen dramatically to as much as \$5 billion spent across the country. The creation of "arts centers" and the refurbishing of "historic districts" is definitely the new momentum for urban renewal efforts in American downtowns. The traditional architectural manifestation of this process is the "arts district" and the arts festival that temporally or spatially confine art projects within predictable consumable areas and time periods. Newark, NJ, just spent \$180 Million on its New Jersey Center for the performing Arts, a project meant to rehabilitate neighborhoods still devastated by the rebellions of the late sixties; Philadelphia is beginning a \$330 Million projects entitled the "Avenue of the Arts"; San Jose, CA, has undergone the rebuilding their art museum; similar projects are being started in Ft Lauderdale, Anchorage, Kansas City, San Francisco and dozens of other cities and municipalities. There are now 60 newly designated "cultural districts" in the country paid for largely with local tax dollars. All this coincides with the NEA cut in arts spending from \$176 million in 1992 to \$96 million today, which has eliminated many categories of granting altogether. Meanwhile, local governments have increased their spending on the arts by more than 5% a year during this period. It seems of immense importance that accompanying the recent privatization of the American cultural scene comes a concurrent localization of cultural capital.

Such investment in the nature of localities demands a concordant attention to promotion. These days, cities advertise themselves as much as shirt companies and soft drink manufacturers. As new advertising strategies have proven, a shopper no longer needs to directly identify with the commodity represented to be activated in a public fantasy about the attitude that such a commodity might represent. In other words, I don't have to eat at McDonald's to feel happy about their new veggie burger. A consumer is now free to embrace an advertisement as a kind of interlocutor, encouraged to perceive it's artifice in an unrelated, even neutral relationship to the actual need for objects that will satiate desire. The managers of desire no longer needs to describe themselves as limited to, or in promotion of, one sphere of human experience over another. Similarly perhaps, the management of public space, the terms of expression that citizens are allowed or encouraged to perform, have rarely direct involvement of the police in recent years. When the tacit agreement to the management of public space is confronted by citizenry, the results can be systematically horrendous as in the forcible removal of squatters and tent villages from NYC parks in recent years.) To the managers of public spaces, a festival, or an art center might be much more persuasive than a baton. Just as in the new advertising strategies that include left political methods and aesthetics to sell sweaters, (please notice the new Taco Bell Zapatistas), an artist working in marginal neighborhoods on a

public art project can legitimate the smooth uninterrupted authority of urban renewal.

The loiterer has no place in any of these contexts: the gated city, the preserved downtown as art center, or the city as an abstract commodity sign. None of these new urban models provide the inarticulate spaces necessary for the survival of critical wandering. The trajectory described by these kinds of "progress" present to many pedestrians in this country an either-or proposition on the future of American public culture. Either accept the twisted philosophy of do-it-yourselfism in the gated towns or commit to the "humanizing" influence of urban renewal as a spectacle of displacement similar to advertising. When artists enter public art dialogues, they risk lubricating the smooth expansion of the commercial sector into spaces previously thought occupied only by outcasts. The pacification of loiterers is central to the realization of the city as an empty sign - escaped and turned into an empty logo. Art which seeks to engage this struggle in defense of loitering can never appear as a form of social work but instead must be able to be seen as a form of social practice. As latent formulations of the dreams that those of us outside the gates can deposit for future use, successful artworks may mean leaving the large critiques of our economy to other outfits and concentrating on the unconscious spheres of every day forms of resistance.

Good artists like good criminals, know that the retrieval

of autonomy from the increasingly regulated arena of public life mandates a sophisticated understanding of the forces that produce and manage that control. This may mean bypassing nineteenth-century models of centrally organized collective actions for the possibilities of subjective rebellion that inspired the formulation of such models in the first place. Instead of repeating the critical forms which are now in alignment with macro spectacles, artists and critics could force new recognitions of the institutional locations of power. The competition and reconciliation between friends, the memories of lost intimacies, the chance alignment of personal and public desire - all could provide cultural forms that avoid simple sociological reduction. Other transgressive potential lies in artists as citizen-loiterers refusing to accept what is already scripted for their interactions by the commercial designation of space and language. This implies a kind of laziness in the face of efficient social work categories of activism and responsibility. Stealing and altering the spaces and signs that make up the modern city for their own uses, artists can model the act of claiming the city that other inhabitants can use in their own contexts.

The artist, like M-, could then describe each space as having its own particular character of compliance AND resistance. For M- it hardly matters whether making policy from pranks or pranks from policy if the final effect is to inspire a re-evaluation of the rules and regulations that enforce the spatial orientations of citizens. The list of

these spaces could come from a vast array of possible sites that would include both monumental arenas easily represented as ripe for intervention, such as state apparatuses, as well as the more mediated configurations of power such as the department store, the hospital, and the sports arena. Likely spots such as the Statue of Liberty and unlikely ones such as Nike Town and the Disney Store can both be addressed according to the specific language of coercion they propose. Neither category will be truly perceivable as material for reconfiguration until artists begin drawing many cognitive maps for the non-rational use of these public spaces.

I want to end with two shorts notes to end this dichotomous discussion, two kinds of unconscious meeting points or coincidences. The first is the remarkable fact that today, in many jurisdictions, local authorities are actually organizing to reintroduce anti-loitering laws at a pervasive level. Last April the Supreme Court agreed to hear an appeal by the city of Chicago against an consolidated case of seventy defendants who have appealed their convictions from the 43,000 people actually arrested and prosecuted. The Chicago Law, called The Gang Congregation Ordinance uses language from the old loitering statutes and defines loiter as "to remain in any one place with no apparent purpose". The City of Chicago is arguing to have the Papachristou decision overturned, to enable laws specifically designed to curb gang violence. The problem of course is what criteria is used to define and

identify a gang member.

The second is a quote cited by Justice Douglas his decision of 1972 on *Papachristou v. Jacksonville*. Extolling the nonconformists who entertain lives of "high spirits rather than hushed suffocating silence" Douglas quoted Walt Whitman in order to emphasize the importance of an open and provisional notion of public life:

The earth expanding right hand and left hand,  
The picture alive, every part in it's best light,  
The music falling wherever it is wanted, and stopping  
where it is not wanted,  
The cheerful voice of the public road - the gay fresh  
sentiment of the road.  
O highway I travel! O public road! do you say to me, *Do  
not leave me?*  
Do you say, *Venture not? If you leave me you are lost?*  
Do you say, *I am already prepared - I am well-beaten and  
undenied - adhere to me?*  
O public road! I say back, I am not afraid to leave you -  
yet I love you;  
You express me better than I can express myself;  
You shall be more to me than my poem.  
I think heroic deeds were all conceiv'd in the open air,  
and all great poems also.  
I think I could stop here myself and do miracles;

(My judgments, thoughts, I henceforth try by the open  
air, the road;)

I think whatever I shall meet on the road I shall like,  
and whoever beholds me shall like me;

I think whoever I see must be happy.

*This essay is indebted to Maureen P. Sherlock's article "No  
Loitering, Art as Social Practice," published in Art Papers,  
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Notes on Site Specificity," published in October, No. 80,  
Spring 1997. I was particularly inspired in this writing by  
the lecture given by Helen Molesworth at the Vermont College  
MFA in Visual Arts winter 1998 residency entitled "Slapstick  
and Laziness: The Ready-mades of Marcel Duchamp." For more on  
the specific relationship of my collaboration with Group  
Material to ideas addressed in this essay, please see my  
"Notes for a Public Artist," published in Christian Phillip  
Mueller's Kunst auf Schritt und Tritt, Kellner Verlag Hamburg,  
1997.*